



“hd” Centre for Humanitarian Dialogue



STOP RAPE NOW
UN ACTION AGAINST SEXUAL VIOLENCE IN CONFLICT

Conflict Related Sexual Violence and Peace Negotiations: Implementing Security Council Resolution 1820

Report on the High-level Colloquium organized by DPA, DPKO, OCHA, UNDP and UNIFEM on behalf of UN Action Against Sexual Violence in Conflict, and in partnership with the Centre for Humanitarian Dialogue

22-23 June 2009, New York

1. PURPOSE AND STRUCTURE

This report provides a summary of issues discussed at a high-level UN Colloquium on addressing conflict-related sexual violence in peace processes, held in New York on 22-23 June 2009.¹ Organized by DPA, DPKO, OCHA, UNDP, and UNIFEM on behalf of UN Action against Sexual Violence in Conflict, in partnership with the Centre for Humanitarian Dialogue, the meeting convened over seventy eminent mediators, subject experts, peace activists and leaders of women’s civil society groups² from conflict-affected countries. The meeting was supported by grants from the Government of Norway and the Multi-Donor Trust Fund of UN Action against Sexual Violence in Conflict.³

The Colloquium offered a practical response – in the form of guidance for mediators – to the call in paragraphs 3 and 12 of Security Council Resolution 1820 (2008) for women’s full participation in conflict resolution, and for sexual violence to be addressed in UN-mediated peace processes and in the Secretary-General’s dialogues with parties to armed conflict.

The meeting’s objective was to further the development of written guidance material for mediators, negotiating teams, and the broader community of peacemaking stakeholders (SRSGs, other international security actors, peace activists). Draft guidance notes were prepared by technical working groups in advance of the meeting and are currently being revised in response to feedback received at the Colloquium. They highlighted key issues in the relationship between conflict resolution and sexual violence and identified the most promising methods of addressing these issues in peace processes. The finalized guidance material will be disseminated through, among other channels, the peacemaker website of the Department of Political Affairs.⁴ The guidance material is organized around five elements of peace agreements:

- Pre-ceasefire humanitarian-access and human-rights agreements;

¹ The analysis and recommendations contained in this report were produced during the Colloquium deliberations by the participants, and do not represent the official positions of the organizing agencies.

² The seventy-four participants included nine mediators and SRSGs, 35 UN staff members, 24 representatives from civil society organizations (technical experts and women’s groups), four military commanders, two national politicians, and a moderator from the BBC World Service.

³ Discussions were conducted under the ‘Chatham House rule’ of non-attribution to encourage open reflection. The quotations included in this report were approved by the speaker concerned.

⁴ <http://peacemaker.unlb.org/>

- Ceasefires and ceasefire monitoring;
- DDR and security arrangements;
- Justice; and
- Reparations and economic recovery/development.

On the Colloquium’s first day (22 June), the five technical working groups refined the draft guidance notes and sought to distill key principles for each of the thematic areas. On day two (23 June), mediators/SRSGs, subject experts, and activists for peace and women’s rights reflected on the relevance of these principles to different types of conflict. High on the agenda was the question of how the recommendations from the technical working groups might be operationalized in light of the serious practical obstacles to even raising sexual violence in peace processes let alone securing adequate provisions in the resultant agreements themselves. Member States discussed the role that Contact and Friends Groups can play in placing sexual violence and its consequences firmly on the negotiating agenda for a given conflict, including by pushing for (and funding) the inclusion of women at all stages of the peace process.

On June 24, a selection of Colloquium participants briefed an Arria Formula meeting of the Security Council convened by the Government of the United Kingdom. They emphasized the need for the Council to provide leadership and accountability on this issue.

2. UNSCR 1820 AND ITS IMPLICATIONS FOR PEACE PROCESSES

Security Council resolution 1820 (2008) recognizes conflict-related sexual violence as a threat to international peace and security and condemns its use as a tactic of war.

Its operational paragraphs call on parties to armed conflict to protect civilians from sexual violence, enforce military discipline, uphold command responsibility, exclude individuals who commit sexual violence from the security services, and prosecute perpetrators. It calls on the UN to ensure that its peace operations are equipped with guidelines to protect civilians from sexual violence,⁵ and asks the UN Peacebuilding Commission to analyze the impact of conflict-related sexual violence on the prospects for both early recovery and long-term peacebuilding. Operational paragraph 3 calls on the Secretary General and his envoys to raise this issue in dialogue with parties to armed conflict. Operational paragraph 12 calls for women’s full involvement in all aspects of conflict resolution, including peace negotiations.

Sexual violence⁶ is a serious crime and human rights violation. Conflict-related sexual violence is sexual violence that is linked to a past or ongoing armed conflict and is committed on a widespread or systematic basis. It is perpetrated by military forces and non-state armed groups, and those who command it are motivated by military and political objectives. *Human Rights Watch* maintains that widespread and brutal rape has been a feature of most ongoing and recent conflicts.⁷ Country-specific research indicates that there is tremendous variation in the *extent* of sexual violence in conflict (particularly the frequency and distribution of

⁵ Guidance for military personnel in peacekeeping operations to implement SRC 1325 and 1820 is currently in development by the UN Department of Peacekeeping Operations (DPKO) in the form of ‘Gender Guidelines for Military Personnel.’ A joint DPKO/United Nations Development Fund for Women (UNIFEM) study, on behalf of UN Action against Sexual Violence in Conflict, documents best practices by military peacekeepers in preventing sexual violence and protecting women: ‘Inventory of Responses by Peacekeeping Personnel to War-Related Violence Against Women’ (http://www.peacewomen.org/resources/Peacekeeping/PDF/WiltonPark_Summary.pdf). No such guidance or best practice materials exists to support mediators’ efforts to ensure that conflict-related sexual violence is addressed in peace negotiations.

⁶ For the definition of sexual violence, see the Preparatory Commission for the International Criminal Court, *Elements of Crimes*, i.e. Elements of the Crime against Humanity of Rape; Elements of the War Crime of Rape in an International Armed Conflict; Elements of the War Crime of Rape in an Internal Armed Conflict. Rape is just one form of sexual violence, a term which also encompasses forced prostitution, sexual slavery, forced impregnation, forced maternity, forced termination of pregnancy, enforced sterilization, indecent assault, trafficking, inappropriate medical examinations and strip searches.

⁷ Jefferson, LaShawn, “In War as in Peace: Sexual Violence and Women’s status,” in *Human Rights Watch World Report*. New York: Human Rights Watch, 2004.

violence), the *intent* behind it (notably whether it is used as part of a systematic effort to achieve military, political or economic objectives), the *profile* of the perpetrators (official security forces, paramilitary groups, non-state armed groups, humanitarian and peacekeeping personnel), and its *impact* (community demoralisation, population displacement, or constitutive act of genocide).⁸

Anderson⁹ outlines six conditions under which conflict-related sexual violence is a matter of international peace and security: when it is a crime of international concern, when there is command responsibility, when civilians are targeted by armed actors, when it proliferates due to a climate of impunity, when there are cross-border implications (population flight or spread of HIV/AIDS) and when it is a ceasefire violation. Sexual violence that falls into any one or any combination of these categories can be considered a matter of concern to the Security Council, mediators, peacekeepers, and those designing or implementing humanitarian, justice, or early recovery responses.

In defining sexual violence as a threat to international peace and security and as in some contexts a tactic of war, SCR 1820 puts the onus on those seeking to resolve and prevent conflict to ensure that this feature of conflict is addressed in peace making and peacekeeping.

Colloquium participants learned, however, that sexual violence has been largely omitted from consideration in peace negotiations, even in contexts where its widespread and/or systematic¹⁰ nature has been a notable feature of the fighting, such as in Bosnia, Somalia, Liberia and Sierra Leone. Only 18 of 300 peace agreements (for 45 conflict situations) signed since 1989 even mention sexual or gender-based violence. These 18 agreements relate to ten conflict situations. In only six conflicts does the ceasefire specifically mention sexual violence: Burundi, Aceh, DRC, Sudan-Nuba Mountains, Sudan-Darfur, and Nepal. The other four conflict situations where sexual violence receives mention in a peace agreement are the Philippines, Uganda, Guatemala and Mexico-Chiapas. The eighteen agreements (spread across these ten conflict situations) in which sexual violence is mentioned include some in which it receives only a passing reference in the preamble or historical background section. Sexual violence is mentioned in the justice section in two agreements (DRC 2003 and Uganda 2007); in four it is mentioned in relation to rule of law and human rights (Guatemala 1995 and 1996, Mexico/Chiapas 1996 and the Philippines 1998); in two it appears within provisions dealing with security arrangements (Sudan/Darfur 2006 and Nepal 2006); and in two it is mentioned in relation to DDR (DRC 2003 and Uganda 2008). In none of the individual agreements or peace processes examined was sexual violence specified as deserving particular attention in relation to reparations or economic recovery/development measures.¹¹

“Resolution 1820 calls on us to hold peace accords to a higher standard –to ensure that a peace deal will truly bring peace for all of the population, and not allow sexual violence to thrive on the impunity that is created through a lack of domestic prosecution and international indifference.” –Gry Larsen, Norwegian State Secretary for Foreign Affairs.

SCR 1820 reiterates the legal obligation to address conflict-related sexual violence in peace processes, but also emphasizes that doing so can bring important peace dividends.

SCR 1820 makes two basic arguments for addressing conflict-related sexual violence in peace talks: legal and instrumental. The legal argument is straightforward: women have a legal right to be protected from sexual violence, even in the midst of war, and victims have a right to reparations. The international community’s legal

⁸ See Farr, Kathryn. “Extreme War Rape in Today’s Civil War-Torn States: A Contextual and Comparative Analysis,” in *Gender Issues*, 26 (2009), pp. 1-41; Wood, Elisabeth Jean, “Variation in Sexual Violence During War,” in *Politics and Society*, 34 (September 2006), pp. 307-342.

⁹ Anderson, Letitia, “Politics by Other Means: When Does Sexual Violence Threaten International Peace and Security?,” forthcoming in a Special Edition of *The Journal of International Peacekeeping* (2010).

¹⁰ This has recently been labeled ‘extreme wartime rape’; for a comprehensive review of incidence and severity see Farr, Kathryn. “Extreme War Rape in Today’s Civil War-Torn States: A Contextual and Comparative Analysis” in *Gender Issues*, 26 (2009), pp. 1-41.

¹¹ Forthcoming UNIFEM publication.

obligations to address the issue are set out in the Security Council resolutions mentioned in the preamble to 1820, notably resolution 1325 (2000) on women, peace and security, resolution 1612 (2005) on children and armed conflict, and resolution 1674 (2006) on the protection of civilians. Other legal obligations are spelled out in the Convention on the Elimination of All forms of Discrimination against Women (1979) and the Rome Statute (1998) to the International Criminal Court and the statutes of *ad hoc* criminal tribunals. Regional treaties also establish this legal obligation – for instance, the International Conference on the Great Lakes Region’s ‘Protocol on the Prevention and Suppression of Sexual Violence against Women and Children’ (2006). The resolution affirms the legal status of sexual violence as a war crime, crime against humanity, and component of genocide. It cannot be amnestied.

The instrumental argument for addressing sexual violence in peace agreements is that doing so can contribute to a more lasting peace. SCR 1820 notes that sexual violence “when used or commissioned as a tactic of war in order deliberately to target civilians or as part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security.” Thus, “effective steps to prevent and respond to such acts... can significantly contribute to the maintenance of international peace and security.”¹² Among these “effective steps” is the careful crafting of durable peace agreements that establish the conditions for restoring social cohesion, promoting economic recovery and building state capacity. Social cohesion requires the reconstitution of families, the return of displaced persons, and the restoration of community support systems. For this to happen sexual violence survivors and children born of rape must not be ostracized for the abuses committed against them. Economic recovery, and in particular food production and market participation, require women’s engagement, while longer-term development requires that girls complete their education. Neither can happen in environments of heightened insecurity, where women and girls have their mobility restricted for fear of sexual violence. The failure to prosecute perpetrators of conflict-related sexual violence undermines efforts to restore the rule of law and erodes people’s faith in government, thereby diminishing state capacity. One consequence of impunity is the escalation of post-conflict sexual violence observed in contexts like Liberia and DRC today. In short, peace agreements that comprehensively address the legacies of conflict-related sexual violence stand a better chance of promoting social cohesion, economic recovery and state capacity – and therefore standing the test of time.

"If we do not confront sexual violence at a war's end, high levels of rape will continue denying women a peace dividend. Put simply, for many women, unabated levels of sexual violence mean that their war does not end with the signing of a peace agreement." – Helen Clark, UNDP Administrator

SCR 1820 greatly strengthens the mandate of mediators to address conflict-related sexual violence in peace negotiations.

As noted, Resolution 1820 calls for changes in the conduct of peace negotiations, peacekeeping, and recovery efforts to prevent conflict-related sexual violence and remedy its effects. Several participants who had been involved in mediation efforts commented that they had not felt that addressing sexual violence was a priority for the parties nor had they received clear orientation on this issue from their respective institutions. There was a consensus that far less had been done to advance this issue in peace talks than could be done; that more robust action was possible even within existing mandates; that pressure and support from external actors (Contact Groups, Groups of Friends) could be harnessed to ensure that sexual violence was placed more firmly on the negotiating table; and that concrete action to ensure that mediation addresses the variety of issues related to sexual violence in conflict requires guidance, resources, and data.

¹² S/RES/1820 (2008), para 1. This is a reaffirmation of its path-breaking predecessor, SCR 1325 (2000), also on Women and Peace and Security – see particularly OP 10 of SCR 1325 on “rape and other forms of sexual abuse.”

SCR 1820 provides leverage to activists seeking justice for victims and survivors.

Women peace activists from Liberia, Bosnia, Guatemala, the Philippines, Nepal and Uganda noted that women's absence from the peace table was a major reason why negotiations rarely covered this topic. Some added that even when activists were given the opportunity they did not raise the issue. Several reasons were cited: social taboos on publicly discussing the subject, difficulties in demonstrating that sexual violence was used systematically as a tactic of war, a failure to recognize sexual violence as a security issue, and poor awareness of its long-term consequences for sustainable peace.

"I am proud of the role women played in advancing the peace process, but one of my greatest regrets is that we did not use this opportunity to raise our own issues and demand prosecution for perpetrators of sexual violence as a deterrent to post-conflict rape. This would not only have stopped the widespread impunity for this crime, but would also have helped send a message about how to deal with this issue in other conflicts in the region." – Leymah Gbowee, who led a women's peace movement that helped hasten the conclusion of the Liberian peace negotiations in 2003.

In addition some activists said that they had been discouraged from raising sexual violence; they were told that it would disrupt or slow down talks because parties to a conflict would fear that any acknowledgement of the scale of the atrocities would open the door to prosecution. Some activists regretted that SCR 1820 had come 'too late for us,' saying that it would have strengthened their ability to insist on attention to the issue.

3. GUIDANCE FOR MEDIATION

Among the Colloquium's objectives was to develop practical guidance for mediators and other actors involved in peacemaking. This guidance addressed issues within each of the five thematic areas mentioned above as well as a series of strategic questions concerning the best means of building support for the inclusion of sexual violence onto the negotiating agenda. The five thematically organized working groups considered the special challenges associated with conflict-related sexual violence: the fact that it is not recognized as a security issue, the lack of data on the extent of the violence and the intent of perpetrators, and the often weak domestic constituencies advocating for attention to the issue. The guidance notes and other background material prepared by the working groups was presented at the Colloquium and revised in response to expert and practitioner feedback. This material is currently being refined to include draft language and case studies for use by mediation teams, negotiating delegations, and civil society actors. Below is a summary of the key recommendations.

a) Pre-ceasefire agreements

Key recommendation: *Pre-ceasefire agreements – particularly humanitarian-access agreements – should include provisions to ensure that sexual violence victims are able to receive treatment and services, and remind parties to a conflict that sexual violence is a serious violation of international law. Humanitarian organizations should, in addition, devise means of ensuring the capture of trend data on sexual violence emerging from operational activities.*

Before a ceasefire has been reached, parties to a conflict may negotiate a variety of confidence-building measures, including temporary cessations of hostilities, agreements to facilitate the access of humanitarian relief organizations, and (as has sometimes been the case) commitments to respect the human rights of civilians during the conduct of warfare. Given the considerable difficulties of identifying and delivering services to sexual violence victims, these early stage agreements must include special provisions that will enable humanitarian workers to overcome these challenges. Not only can humanitarian organizations supply essential services; in the process of doing so they can also begin compiling data on the extent of sexual violence that can inform later substantive negotiations.

“We leave conflict-related sexual violence to humanitarian agencies, and all they can do is offer a rape survivor a blanket and some food. They can document it and provide for victims, but cannot stop it. We need to address this as a political and security issue.” – Jan Egeland, Director of the Norwegian Institute of International Affairs, June 23, 2009.

UN-appointed mediators of early-stage agreements – or indeed UN agencies themselves, when (as providers of humanitarian assistance) they are party to such an agreement – may be able to exploit the desire of groups locked in brutal conflict to improve their reputations. Armed forces and groups may find agreeing to prevent sexual violence – above and beyond merely allowing humanitarian access to

victims – a useful method of building support among local populations. A more politically attuned armed group may also recognize an opportunity to improve its image vis-à-vis the international community, on whose support – for humanitarian assistance or post-conflict aid – they may find themselves reliant. Parties to a conflict may have strong reasons to demonstrate their ability to meet the obligations to which they have committed themselves. Pre-ceasefire and confidence-building agreements thus represent important early-stage opportunities to signal zero tolerance for sexual violence and to generate a commitment to preventing it. This can then be built upon in later phases of the peace process, including in the crucially important pre-negotiation ‘talks about talks,’ through which the negotiating agenda often takes shape, the list of bona fide participants is agreed, and the format and timeline for discussions is drawn up. All of these parameters affect the ability of advocacy organizations to keep conflict-related sexual violence in the spotlight as the peace process moves forward.

b) Ceasefires and ceasefire monitoring

Key recommendation: *Ceasefires and cessation of hostilities agreements must specify that conflict-related sexual violence is a prohibited act, and that ceasefire monitoring teams will be tasked and equipped to report on it.*

Conflict-related sexual violence has rarely been specifically prohibited under the terms of a ceasefire agreement. As a result, ceasefire monitoring teams have seldom been directed to report on conflict-related sexual violence. Sexual violence can therefore continue to be used by parties to a conflict to pursue military objectives even when other methods of warfare have been proscribed.¹³ Because of deeply ingrained biases in the conduct of security institutions and personnel, the non-specification of sexual violence in ceasefire monitoring typically means that peacekeepers do not engage systematically – through the development of doctrine, procedures, and rules of engagement – in efforts to prevent and respond to sexual violence committed by armed groups during ceasefires.

“If sexual violence is not addressed squarely in ceasefires and peace processes, there will be no peace for women.” –Jan Egeland, Director of the Norwegian Institute of International Affairs, June 23, 2009.

To counter this in-built tendency, and to comply fully with SCR 1820, ceasefires should specify that conflict-related sexual violence is a prohibited act, and that its consequences must be addressed in all aspects of the ceasefire, including in the separation of forces, the operation of cantonment sites, and the exchange of prisoners. In addition, ceasefire monitoring teams should

be tasked, trained and structured to report on sexual violence. The task of monitoring for sexual violence should be mainstreamed throughout integrated monitoring teams, which may however require support from specialists who have training in, for instance, processing victim complaints, collecting and handling witness testimony and cross-checking information. Addressing sexual violence effectively also requires the inclusion of

¹³ See “Women Targeted or Affected by Armed Conflict: What Role for Peacekeepers?” Summary of Wilton Park Conference (27-29 May 2008), available at http://www.unifem.org/attachments/events/WiltonParkConference_SummaryReport_200805_1.pdf; ICTJ, “Mass sexual violence as a tactic of war”, 24 June 2008; Jones, Anne, “The War against Women: A Dispatch from the West African Front” (2008), at <http://www.tomdispatch.com/post/174895>.

more women police and military personnel on ceasefire monitoring teams. Collecting comprehensive data on the nature of violations is critical to the success of a ceasefire monitoring mission, but can also be very challenging in insecure environments. Mediators should ensure that ceasefire monitoring arrangements include protocols for collecting information on sexual violence that are consistent with the WHO's ethical guidelines. The capacity of NGOs in conflict-affected countries to participate in a structured data-collection process should also be enhanced. UN actors must develop systems for verifying such data.

c) DDR and Security Arrangements

Key recommendations: *Security arrangements, whether transitional provisions, peacekeeping operations, or post-conflict security institutions, should be designed to prevent conflict-related sexual violence.*

DDR programmes should address the needs of women and girls associated with fighting forces (who are frequently victims of sexual violence), while also protecting civilians in receiving communities from the threat of sexual violence by returning ex-combatants.

The security-related components of peace agreements (DDR, transitional security arrangements, longer-term SSR) must address the implication of security actors in conflict-related sexual violence and support reforms that make security-sector institutions more effective at preventing sexual violence in the post-conflict environment. However, sexual violence and the imperative of protecting women are rarely major concerns in efforts to merge, shrink and retrain security actors.

DDR programmes, designed primarily to reducing the incentive and capacity of spoilers to derail peace agreements, are essential to short-term stabilization. Three sexual violence issues must be addressed in DDR: the special needs of women and girls associated with fighting forces, particularly those who are victims of sexual violence; the risk of triggering elevated levels of sexual violence when demobilized combatants return to their communities; and the challenge of keeping human rights abusers, including perpetrators of sexual violence, from absorption into merged ('national') armed forces. Good practice in all three areas has been limited. This could be substantially remedied if peace accord contained provisions specifying that women and girls associated with armed forces are eligible for special provisions to address their needs on an equal priority with male ex-combatants. The reintegration components of DDR programmes should support efforts to protect civilians in receiving populations from the threat of sexual violence by returning ex-combatants. Given weak police capacity in most post-conflict settings, this requires investment in community-supported security monitoring systems, which can enhance the state's sensitivity to local indicators that sexual violence is rising. Finally, vetting systems must identify perpetrators of sexual violence and prohibit their absorption into national security forces, a process that requires an overhaul of existing DDR models and the provision of gender expertise to programme designers.

"Sexual violence is not a woman's issue or a gender issue. It's a security issue." –Major General Patrick Cammaert, former deputy commander of the Eastern Division, MONUC (retired).

Transitional security arrangements and post-conflict security institutions must be mandated and resourced to promote women's security and prevent sexual violence. Many aspects of policing, for instance, need revision, including systems for gathering intelligence on security threats, receiving and processing reports of sexual violence, conducting investigations, and liaising with judicial institutions. Within substantial reform, security personnel remain under-incentivized and in some cases simply unable to detect and prevent sexual violence while guaranteeing the dignity and safety of victims. Accountability systems in security institutions should ensure the participation of women in civilian oversight bodies and procedures for investigating and sanctioning perpetrators of sexual violence. Codes of conduct for security actors must include a duty to respond to sexual violence allegations. Special measures to encourage recruitment of women to the security forces are also helpful in creating a security environment more responsive to women's security needs. Finally,

conflict analysis that informs national security planning must systematically examine patterns of sexual violence, with special attention to anticipating and responding to spikes in sexual violence during any instability in the post-accord period.

d) Justice

Key recommendation: *The justice provisions of a peace agreement should require that sexual violence be addressed with equal priority to other international crimes.*

Most peace agreements have been silent on the question of how to ensure accountability for sexual violence, even when it has taken place on a widespread and systematic scale. Transitional justice and reconciliation mechanisms have not yet effectively protected witnesses and victims, nor have domestic courts built strong records of prosecuting war-time sexual violence.¹⁴ The International Criminal Court has yet to issue its first ruling, and the first trial does not include charges of sexual violence. At the International Criminal Tribunal for Former Yugoslavia, 18 convictions are related to sexual violence, while the number is lower in other courts: 8 convictions at the International Criminal Tribunal for Rwanda, and 6 convictions at the Special Court for Sierra Leone. Weak justice responses to conflict-related sexual violence are the result of peace processes that do not address this issue in sufficient detail.

Even when peace agreements include mechanisms to ensure accountability for war-time violations or those committed in violation of a ceasefire, sexual violence survivors face a particular set of challenges, including social ostracism, physical threats, and weak or poorly implemented laws on sexual violence. Biases in national legal systems that discriminate against women were identified by Colloquium participants as a serious obstacle to effective prosecution. Peace accords may therefore need to include commitments to develop legislation that fully criminalizes sexual violence. Women's groups in Sierra Leone, DRC, Liberia, and Timor Leste have prioritized this type of legal reform in the post-conflict period.

“While in Sarajevo, after the first verdicts came out on rape as a war crime, I asked a group of Bosnian women survivors if they were happy that the ICTY had just issued a 20-year sentence against a war criminal. They replied ‘What are you talking about? We got a lifetime sentence!’ – Elisabeth Rehn, former Defence Minister of Finland and UN SRSG in Bosnia and Herzegovina.

Given that sexual violence constitutes or is an element in several international crimes, peace accords should establish justice arrangements that treat conflict-related sexual violence as seriously as they do other violations of equal gravity. There can be no amnesty for conflict-related sexual violence when it amounts to a war crime, a crime against humanity, or a constitutive act of genocide. Mediators should push for the inclusion of specific references to conflict-related sexual violence in the accord's transitional justice provisions, as well as for measures to protect the security and dignity of victims and witnesses. Mediation teams should consult with survivors, women's groups, and other civil society groups, and report regularly on this aspect of their work to the Security Council (or other mandating authorities).

e) Reparations and economic recovery/development

Key recommendation: Peace agreements must address both the immediate and long-term recovery needs of sexual violence survivors, by providing urgent mental & physical healthcare; supporting the development of livelihoods; reforming public education to end social prejudices that stigmatize victims and their families; reforming governance and security-sector institutions to ensure that these violations are not repeated; and providing public commemoration, where desired, of the abuses suffered.

¹⁴ Forthcoming UNIFEM research paper.

There are compelling reasons to ensure that the lasting impact of widespread and systematic sexual violence is not neglected when planning either reparations programmes or the economic reconstruction of war-ravaged societies. The damage inflicted on the fabric of society by conflict-related sexual violence may, for instance, be so profound as to undermine the relations of trust on which private economic activity and public services rely. But victims of sexual violence are rarely in a position to influence the design of post-conflict institutions tasked with formulating development priorities or awarding reparations. The particularly heavy social stigma attached to sexual violence discourages many victims from demanding public policies that would respond to their needs and, by extension, support community recovery. As a result, reparations often fail to acknowledge sexual violence victims as ‘war wounded’ deserving of public support, or fail to implement reparative measures in ways that do not re-victimize, or even endanger, survivors.¹⁵

To the extent that they discuss reparations arrangements – an obligation of post-conflict states in any case – peace agreements must address the distinct needs of sexual violence victims. This means, at a minimum, recognizing sexual violence survivors as a distinct beneficiary category, relaxing evidentiary standards while raising confidentiality and privacy standards, making available a full menu of reparations options, and guaranteeing that participation in such a programme does not preclude survivors from access to further legal redress. This task could be facilitated by commissioning, at an early stage in the process, a comprehensive report on the frequency, distribution, intensity, and circumstances of sexual violence, and what implications these patterns might have for the design of post-conflict reparations institutions. If the text of the accord delegates the design and implementation of a reparations programme to a commission or task force, the accord should further specify that this entity exhibit gender balance.

“Those that are responsible for the death of our loved ones, for raping us, destroying our properties, mutilating our bodies, and for all the untold suffering that we have been subjected to are not only offered amnesty, but are also given cash and other household items. Their children are sent to schools while ours remain home. And I would like to ask why are we being punished? Is it because we did not kill and rape? – Betty Bigombe, Distinguished African Scholar at the Woodrow Wilson International Center of Scholars, quoting a woman in an IDP camp in Uganda, June 23, 2009.

Sexual violence survivors must contend with challenges that often differ from those experienced by the population at large, or indeed by victims of other human rights abuses. Thus, peace agreements must address both the immediate and long-term recovery needs of sexual violence survivors, their families, and affected communities, as well as anticipate the possibility

of elevated levels of post-conflict sexual violence. This might entail earmarking expenditures for specialized services for survivors, with special attention to sexually-transmitted diseases and unwanted pregnancies; the extension of adequate livelihood opportunities for sexual violence survivors; and the availability of education opportunities for children born of rape and school-age survivors of sexual violence. Finally, survivors of sexual violence require special protections to preserve their dignity, protect their identities, and ensure non-repetition. For this reason in some contexts survivors have opted for community rather than individual reparations (Morocco, Peru) or symbolic acknowledgement of culpability such as the request for a presidential apology in Sierra Leone. Such options should be set forth in a statement of minimum conditions which a reparations programme would be expected to meet, regardless of the specifics of its design.

¹⁵ To date, only a handful of peace processes, such as Bosnia and Herzegovina, Sierra Leone, Peru, Guatemala, or Colombia, have begun to disburse benefits to victims of sexual violence in the context of reparations programs (forthcoming UNIFEM research paper). This analysis builds on Rubio-Marín, Ruth (ed.), *What Happened to Women? Gender and Reparations for Human Rights Violations*. New York: International Center for Transitional Justice (2006).

4. CROSS-CUTTING ISSUES: ACCOUNTABILITY, WOMEN'S PARTICIPATION, DATA

Stronger accountability systems are needed to ensure that sexual violence is addressed in peace processes.

Even in the absence of a mandate, implementers of peace agreements can still take steps to monitor sexual violence and/or prosecute it. However, while there are important examples of individual initiative and leadership in confronting this issue without an explicit mandate, Colloquium participants felt that response to conflict-related sexual violence could not be left to the discretion of mediators, prosecutors or force commanders. Clearer accountability systems – notably in the Security Council – are needed to ensure consistency in mandate interpretation and application of international legal requirements to address sexual violence.

Contact and Friends Groups can support the issue.

Contact Groups and Groups of Friends can play a critical role in ensuring that difficult human rights issues are addressed in peace processes. However, members of such groups typically place great pressure on mediators to conclude peace agreements as swiftly as possible. Consistency in member-states' support for attention to sexual violence issues is critical. Member states could, for instance, band together to announce an intention not to fund the implementation of peace agreements that do not address the legacies of conflict-related sexual violence. Equally valuable would be the provision of expertise on the prevention of sexual violence to mediation and ceasefire monitoring teams and to peace operations more generally.

“The number of armed conflicts has gone down from 54 to 33 in the last 18 years, but it is clear that the quality of peacemaking is not nearly good enough for civilians in general and women in particular.” –Jan Egeland, of the Norwegian Institute for International Affairs.

In the case of ceasefires, a ‘good practice’ example is the joint monitoring team deployed in the Nuba Mountains (Sudan) from 2002 to 2005. The team’s mandate included sexual violence among the specific acts that armed groups were specifically prohibited from engaging in, regardless of whether their

role was committing, commanding, or condoning it. Ten percent of the Nuba Mountains monitoring team members were women police personnel. The attention to sexual violence in the agreement itself was promoted by members of the international ‘Friends of the Nuba Mountains Group’ that had hosted negotiations in Switzerland. This group also helped to supply the additional women members for the joint monitoring team.

Women’s engagement in peace negotiations is indispensable to addressing conflict-related sexual violence.

While women are not the only victims of conflict-related sexual violence, they have to date been the most vocal social category working to stop it. In this sense implementation of SCR 1325’s provisions regarding women’s inclusion in conflict resolution is crucial to the implementation of SCR 1820. Women’s exclusion from peace processes has continued relatively unchanged since the passage of resolution 1325 - if anything, the numbers of women in Track I processes have decreased since 2000. Research by UNIFEM, based on a sample of 24 major peace processes since 1992, found that only 2.1% of signatories were women; that women’s participation in negotiating delegations averaged 7.1% of the 14 cases for which such information was available; and that no women have been appointed Chief or Lead mediators in UN-sponsored peace talks.¹⁶ All five of the Colloquium’s technical working groups made

“SCR 1325 is about prevention and power, SCR 1820 is about protection and punishment. Both are important. But there will be no sustainable implementation of 1820 unless you are also implementing 1325.” – Pierre Schori, former SRSG for Côte d’Ivoire and Director-General of the *Fundación para las Relaciones Internacionales y el Diálogo Exterior* (FRIDE).

¹⁶ Although Angola was not included in this sample, it should be noted that Dame Margaret Anstee was Special Representative of the Secretary-General in Angola during 1991-92 and mediated the peace process while in that role. Another exception is Graça Machel,

recommendations for women’s participation in peace negotiations and in the institutions for implementing accords, such as ceasefire monitoring teams, truth and reconciliation commissions, human rights commissions, reparations commissions, early recovery planning bodies, and so forth.

“Because the domestic constituency to raise this issue is often relatively silent or powerless, the international community has a duty to ensure that the concerns and needs of victims are addressed at every possible stage of peace making.” – Ian Martin, Department of Political Affairs, and former SRSG for Nepal (statement for press release).

Two problems that could limit the effectiveness of women’s engagement require direct attention by mediators and the international community: the relative weakness of domestic constituencies advocating for attention to sexual violence, and the relative paucity of expertise on sexual violence among women’s groups and mediation teams. A combination of the stigma attached to sexual violence survivors, the dispersal or exhaustion of domestic women’s movements, and the relatively low leverage of human rights advocates in peace processes produce typically weak domestic constituencies to

promote attention to sexual violence. This is particularly problematic for mediators who are not in a position to insist that issues be put on the agenda, and therefore require expression of a credible domestic interest.

This problem has implications for the **timing and sequencing** of attention to conflict-related sexual violence and for the organization of consultations between mediators, negotiators and civil society groups. Efforts must be made to acknowledge and address the issue as early as possible and to invest in the capacity of domestic CSOs to elevate its legitimacy as a national concern, and to build a reliable base of information for negotiators and mediators. Track II and other efforts to engage civil society in building peace must create space for this issue to be addressed.

A lack of data cannot be an excuse for inaction.

Sexual violence often happens far from the surveillance of a ceasefire monitoring team or peacekeeping mission and may not imprint on popular and international awareness because it leaves invisible scars. The stigma attached to the crime also makes victims reluctant to share information about their experiences. For this reason, the scale and consequences of sexual violence have at times gone undetected by trained human rights investigators, particularly where its victims are from socially excluded groups. This was the case in the Central American conflicts of the 1980s and 1990s – for instance, in Guatemala, where indigenous women were the prime targets. But a lack of data must not be an excuse for postponing attention to the issue. All technical working groups proposed that mediators and parties to negotiations be provided with briefing papers by national and international NGOs on the nature of conflict-related sexual violence in that conflict, the profile of victims and perpetrators, and the impacts produced. It was also felt that, even when such reports are produced, mediation and humanitarian teams should nevertheless engage at an early stage in consultations with sexual violence survivors, relevant civil society organizations, and affected communities in order to understand the extent of the sexual violence and the intent behind its use. The inclusion of subject specialists on mediation teams would help to generate heightened awareness and understanding of the phenomenon. In addition, it was proposed that military observers and peacekeepers develop improved civil-military liaison capabilities in order to generate better information about incidents and patterns of sexual violence.

5. FURTHER RECOMMENDATIONS

In the course of the Colloquium, stakeholder-specific recommendations were made by participants. These include:

who was one of three mediators appointed by the African Union to help resolve the Kenya crisis in 2008 (forthcoming UNIFEM research paper).

To the Security Council:

- The Council should ensure that sexual violence is not included in amnesty provisions contained in any UN-mediated peace agreement; peace deals must not violate international humanitarian law.
- The implementation of SCR 1820 could be systematically monitored by tracking the staffing, conduct, and results of mediation missions concerning (a) the extent to which they substantively address issues of sexual violence; and (b) facilitate the full and equal participation of women and their civil society representatives.
- The Council should ensure that peacekeeping missions deploying in contexts where sexual violence was a feature of the conflict have explicit mandates, resources and capabilities to protect civilians from sexual violence via a robust security response. When mediators report to the Council, conflict-related sexual violence and steps taken to address it must be raised systematically during questioning.
- The Council should highlight the need for dedicated senior-level expertise and resources on sexual violence in all mediation efforts.
- As part of its broader mandate to monitor implementation of SCR 1820, the Council and its Working Groups, such as the Expert Group on the Protection of Civilians, should pay particular attention to how the UN responds to the security needs of civilians in the immediate aftermath of conflict, following the signing of a peace agreement.

To UN member states:

- Groups of Friends and Contact Groups should consider providing financial support for civil society organizations and technical experts to advocate for the full inclusion of issues of sexual violence in peace processes and for stronger humanitarian service provision for survivors.
- Member states engaged in supporting peace processes should improve actions on sexual violence by using their leverage to push for women's inclusion in peace negotiations, and supporting the provision of expertise on gender and sexual violence issues to mediation processes.
- Countries contributing troops to peacemaking or peacekeeping operations should undertake pre-deployment training on conflict-related sexual violence and prosecute their nationals guilty of sexual exploitation and abuse while deployed. Efforts should be made to provide female personnel in all peacekeeping categories.

To the UN system:

- UN actors responsible for supporting women's empowerment should invest in building the capacity of women's groups to engage in peace processes long before conflicts end. This will position them for opportunities to participate in Track I and Track II processes.
- Rosters of potential women mediators should be developed, vetted, and shared with international security organizations. Guidance and training packages for mediators, peacekeepers, judicial personnel and domestic security actors should be developed.
- UN actors responsible for the training of SRSGs must ensure that they are aware of the multi-dimensional response required to respond to sexual violence, the different mission components involved and the implications for addressing sexual violence in mediation efforts.
- UN actors responsible for mediation should include gender advisors and specialists in the analysis of sexual violence as part of mediation teams. Women mediators should be appointed, and more women should be assigned to mediation support teams. Parties to armed conflict should be encouraged to include women in negotiating teams and to hold consultations with women in civil society. Women's engagement in Track I and track II processes should be supported, including by provision of information as early as possible to women's groups regarding plans for peace processes. Numbers of women participating in different roles in Track I and Track II processes should be tracked.

- UN actors responsible for peacekeeping should mandate, train and equip ceasefire monitoring teams to detect and monitor conflict-related sexual violence; ensure that DDR and SSR arrangements take sexual violence into consideration; staff ceasefire monitoring teams and peacekeeping missions with women military observers, civilian-military liaison officers, troops and police; and adjust field operations to ensure that all possible efforts are taken to detect and prevent sexual violence.
- UN actors responsible for early recovery and peacebuilding should ensure that national capacity is built for addressing the needs of sexual violence victims and survivors, their families and communities. This must include increased funding to build the capacities of civil society groups representing the needs of sexual violence victims and survivors. These efforts, and particularly fund allocations for these activities, should be tracked.

To the Secretary-General:

- The Secretary-General's implementation of OP 3 of SCR 1820 should include instructions to those executing his good offices in conflict resolution to raise attention to the need to prevent sexual violence and prioritise security, accountability, and immediate and long-term socio-economic services for survivors of sexual violence in conflict.
- The Secretary General's implementation of OP3 of SCR 1820 should include the development of a strategy for his office and his envoys for raising attention to sexual violence in discussions with parties to armed conflict.
- Performance assessments of SRSOs should include consideration of the adequacy of efforts to address conflict-related sexual violence.

To SRSOs:

- SRSOs should systematically include representatives of women's organisations and experts on sexual violence during conflict-prevention, mediation, peacekeeping and peace consolidation.
- SRSOs should include information on how they are addressing sexual violence in their reports to the Security Council.
- SRSOs deployed in a conflict country should seek out the advice of women's rights groups and civil society organizations that may have information about conflict-related sexual violence, and request, more specifically, briefs on its intent, extent, and impact.

To civil society organizations and women's groups:

- International Civil Society Organizations should support capacity-building of local CSOs to enable more effective representation of the needs of survivors of sexual violence.
- International CSOs, local CSOs and relevant UN agencies or other international actors should collaborate to prepare briefings on sexual violence for mediators and parties to armed conflict as early as possible in a peace process in order to inform them as to the intent, extent, and impact of sexual violence.
- CSOs should support improved media reporting on conflict-related sexual violence.

"Our first priority must be to include women in peace talks as full and equal partners. If we do not – if we ignore sexual crimes- we trample on the principles of accountability, reconciliation, and peace. We fail not just women but all people." –United Nations Secretary-General Ban Ki-moon, June 23, 2009.

ANNEXES:

- 1) Colloquium programme, and
- 2) List of participants