

Team of Experts

Rule of Law/Sexual Violence in Conflict



DPKO



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER



OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON
SEXUAL VIOLENCE IN CONFLICT

PROGRESS REPORT

JANUARY-MAY 2011

INTRODUCTION

On 30 September 2009, the Security Council unanimously adopted Resolution 1888, which builds upon the principles and obligations of previous Security Council Resolutions 1325 (2000) and 1820 (2008) on women, peace and security.

Operative paragraph 8 of the Resolution calls upon the Secretary-General of the United Nations to take measures to identify and deploy rapidly a Team of Experts (TOE) "to situations of particular concern with respect to sexual violence in armed conflict" in order to "assist national authorities . . . to strengthen the rule of law".

Within the broader objective of strengthening the rule of law, the TOE was tasked to:

1. Work closely with national legal and judicial officials and other relevant governments' civilian and military justice systems to address impunity, including by the strengthening of national capacity and drawing attention to the full range of justice mechanisms to be considered;
2. Identify gaps in national response and encourage a holistic national approach to address sexual violence in armed conflict, including by enhancing criminal accountability, responsiveness to victims and judicial capacity;
3. Make recommendations to coordinate domestic and international efforts and resources to reinforce governments' ability to address sexual violence in armed conflict; and
4. Work with a variety of United Nations mechanisms towards the full implementation of Resolution 1820 (2008).

In November 2009, the UN Action's Steering Committee requested the United Nations Development Programme (UNDP); the Department of Peacekeeping Operations (DPKO); and the Office of the High Commissioner for Human Rights (OHCHR) to serve as co-lead entities responsible for the development and establishment of the TOE. The co-lead entities developed a joint programme, funded by UN Action and currently being implemented by the TOE. This is an interim report on the execution of the programme. The report also draws some lessons from the TOE's work so far and identifies major activities for the coming period.

The composition of the TOE is as follows: the Team Leader, who joined in mid-January 2011, the UNDP member who joined in February 2011, the DPKO member who joined at the end of March 2011 and the OHCHR member who joined in mid-May 2011. The TOE's administrative assistant also joined the Team in March 2011.

OUR VISION

Military and civilian justice systems enabled to respond promptly and effectively to conflict related sexual violence, through sound legislation, comprehensive prevention and response mechanisms, and strengthened capacity.



OUR APPROACH

The TOE builds upon existing inter-agency mechanisms with regard to prevention and response to sexual violence. The TOE currently draws from existing human resources from the participating agencies and is composed of staff from DPKO, OHCHR and UNDP.

The work of the TOE seeks to support and complement the work of the United Nations in its mission to provide security, foster development, protect human rights and support peacebuilding initiatives. The Team's interventions seek to identify gaps and challenges faced by national authorities and institutions in responding to sexual violence and its recurrence by providing expert strategic, technical and programmatic guidance and action plans to address them. The Team focuses on strengthening national capacity and ensuring that its interventions build on and complement existing partners' and governments' initiatives on the ground.

Fundamental to the Team's support is the issue of sustainability and national ownership. During assessment or deployment, the TOE focuses on ensuring that key drivers for prevention and response are grounded on national efforts, to ensure that the identified areas of support are agreed by the concerned government. In addition, the TOE looks into existing mechanisms established by the UN peace missions and UN Country Teams (UNCT), civil society organisations and other national and international stakeholders to ensure duplication is avoided and that any agreed intervention or assistance brings added value.

The TOE has aligned its geographic priorities with those of the Office of the Special Representative of the Secretary-General on Sexual Violence and Conflict (SRSG-SVC) and UN Action Against Sexual Violence in Conflict. The TOE has therefore identified the following seven priority countries for the current year: Bosnia and Herzegovina, Central African Republic, Colombia, Cote d'Ivoire, the Democratic Republic of Congo (DRC), Liberia, and Sudan (South Sudan and Darfur). However, the selection of these seven countries will not prevent the TOE from engaging in other conflict and post-conflict countries deemed important and identified in coordination with UNCT and relevant governments.

The TOE shares UN Action's guiding principles. It also grounds its approach on complementarity, responsiveness to victims and survivors, coordination of domestic and international efforts, and recognises the importance of national leadership in efforts to combat impunity for sexual violence.



Team of Experts members

MAIN OUTPUTS

The key outcome of the initial programme is to enable the Secretary-General, to implement, as expeditiously as possible, operative paragraph 8 of Security Council Resolution 1888 by establishing a Team of Experts which could be rapidly deployed to "situations of particular concern with respect to sexual violence in armed conflict."



Photo: OSRSG-SVC

The main outputs of the programme are:

- TOE established under the auspices of the SRSG-SVC and the co-lead entities (DPKO, OHCHR, UNDP).
- TOE prepped and deployed to conflict and post-conflict countries identified by the SRSG-SVC and the Secretariat of UN Action as "situations of particular concern" with the consent of the host government and in coordination with the UN presence in the country. Additionally, situations where sexual violence in conflict is occurring are monitored through research and analysis including on patterns and trends, as well as on the overall response to sexual violence by national authorities and other national and international stakeholders.
- TOE supported in its work through resource mobilization, establishment of a roster to complement its work with specific expertise that may be required, and outreach and communication activities to increase its visibility.

KEY EVALUATION CRITERIA

This programme will be measured against the following criteria:

- Establishment and consolidation of the Team of Experts;
- Identification and recommendation, through research and analysis, of “situations of particular concern” to which the TOE could be deployed;
- Assessments and work plans for the TOE on identified “situations of particular concern”;
- Deployments of the TOE to “situations of particular concern” as requested, and evaluation of how national authorities have been assisted through technical, strategic and programmatic advice;
- Securing of financial and human resources for the TOE beyond the initial six-month period;
- Successful completion of the scoping study of expert rosters; and
- Increased awareness of effective legal protection against sexual violence in armed conflicts and their aftermath, as well as on the work, value and modus operandi of the TOE.



Team of Experts in Gbarnga, Liberia 2011

ACTIVITIES UNDERTAKEN AND ACHIEVEMENTS



Photo: IRIN

ENGAGEMENT IN THE DRC

The TOE visited DRC from 30 January to 12 February 2011 to conduct an assessment.

The Team used the visit of the SRSG to DRC as an opportunity to be officially introduced to Congolese authorities, notably to key Ministers and to the President and seek their consent for the Team's deployment. The Team undertook consultations with Government officials at national and regional level (eastern Congo), including military and police leadership and with various partners, the UNCT, civil society organisations, national and international NGOs and diplomatic missions.

The assessment enabled the TOE to identify a number of gaps that, if addressed, would complement the work of the UN in strengthening the Government's efforts to fight impunity for sexual violence. Of note is the need for safe and secure environments within Forces Armees de la Republique Democratique du Congo (FARDC) and the Police Nationale Congolaise (PNC), for reporting, admissions and confessions on sexual violence.

In addition, the assessment highlighted the need for strengthening the capacity of the military justice system, mainly: investigative capacity of military prosecutors; evidence collection (including forensics); evidence storage and protection; prosecution; as well as the protection of witnesses, victims and survivors.

Logistical, material, human and infrastructural constraints faced by the military justice system to further stress their limited capacity were outlined. There are few trained military magistrates, most of whom are men.

To assist the FARDC to prosecute sexual violence cases, the TOE will be providing expertise on investigation and prosecution of sexual violence through the establishment of "Prosecution Support Cells" (PSC) in the 8th and 10th military regions (North Kivu and South Kivu). The PSC are in the process of being established by MONUSCO.



FARDC soldiers, DRC 2011

The TOE is in the process of securing US\$700,000 funding from the US Department of State - Bureau of Democracy, Human Rights, and Labor to ensure the presence of four experienced experts on sexual violence (investigators and prosecutors) within the PSCs.

These experts will mentor the FARDC in identifying and responding to existing case-backlog; in collecting, processing and dealing with relevant information on events containing elements of sexual violence; and in investigating and prosecuting the most serious sexual violence crimes committed in the east.

This assistance will be in the form of in-field coaching in technical areas such as forensics, interviewing, and witness and victim protection. These professionals shall be assigned to PSC for an initial period of six months.

The TOE is similarly working with the UN on the ground to assist the Government in the deployment and operationalization of newly appointed female magistrates (civilians) trained on sexual violence. The TOE is providing assistance to ensure that at least 25 women magistrates are deployed and become operational in the east. These women will constitute Sexual Violence Cells within Grand Instance Tribunals in Bukavu, Uvira, Goma, Butembo and Bunia in eastern Congo. This is expected to have a direct impact by increasing the number of cases of sexual violence successfully prosecuted. In addition it will serve as a deterrent to potential perpetrators.

The TOE is also mapping 25-30 major incidents of sexual violence, under the current legislation (2006-2011), assessing the national response in order to provide assistance.

ENGAGEMENT IN LIBERIA



Court session. Gbarnga, Liberia 2011

Following an assessment conducted from 24 April to 6 May 2011, and building upon the June 2010 SRSG-SVC's visit to Liberia, the TOE has now been able to identify the main gaps, based on analysis from consultations with the UN, civil society organisations and the Government of Liberia.

Assistance and support that will be provided to the Government of Liberia to address impunity for sexual violence is threefold: assistance in critical areas of need in capacity strengthening of the entire justice chain, including the police, prosecution, legal defence and courts; assistance on the legal framework and in the coordination of various tools and initiatives aimed at addressing sexual violence. For instance, among other issues, it is now clear that there is an urgent need to

provide expertise to the LNP to conduct proper investigations, including crime scene management and statement taking. Such capacity is direly needed in the counties outside Montserrado.

The TOE, in light of the findings of the assessment visit, has proposed to complement UNMIL's efforts by embedding an expert in the LNP, through UNPOL (an international consultant, with mentoring expertise in criminal investigation and physical evidence gathering). The Team has also proposed that another expert is embedded in a Circuit Court outside Montserrado to provide mentoring on prosecution. This could be piloted in one of the hubs such as Gbarnga, Bong County. Through embedding, the TOE would also provide support to prosecutors in the Sexual and Gender Based Violence Crimes Unit, including in the establishment of strong linkages with WACPS within the LNP and Court E.

With regard to the legal framework, the TOE has proposed providing assistance in developing sentencing guidelines for courts when passing sentences upon persons convicted of sexual violence crimes. In addition, technical expertise will be provided in the process of drafting the Children's Act to ensure the Act addresses the critical issues that have been left out of the Rape Law in the area of child protection. The Team would equally complement the work of the task force led by the Law Reform Commission on the potential harmonization of statutory and customary law and the coexistence of mechanisms applying each, in regard to addressing cases of sexual violence, in a way that is consistent with human rights norms and standards.

TOE recommendations, have been discussed and endorsed by the UN system, and are currently being consulted with the Government of Liberia.

ENGAGEMENT IN SUDAN

The TOE is currently preparing issues for consideration by the Government of South Sudan for the Transitional Constitution of the Republic of South Sudan (TCSS). This is in response to a request to the TOE (through the OSRSG-SVC) from the South Sudan representation in Washington. The Government requested assistance from the TOE to help them in the process of drafting their transitional constitution. This should be regarded as a golden opportunity to help the country adopt a transitional constitution that builds on strong constitutional foundations that would contribute to preventing and addressing sexual violence.

In June, the TOE will be visiting South Sudan to provide such assistance. The Team will consult UN stakeholders and relevant governmental institutions, including the Ministry of Legal Affairs and Constitutional Development; the Ministry of Gender, Child and Social Welfare; the Human Rights Commission; civil society organisations; women's groups; and relevant parliamentary committees. The Team will also review recommendations before they are presented to the Ministry of Legal and Constitutional Affairs. A draft note prepared by the Team stresses the necessity to build strongly on the Bill of Rights and propose that the TCSS builds on the foundations of equality, non-discrimination and women's participation.



Southern Sudanese women wait in line in Juba to vote on 9 January 2011 in the referendum. Photo: IRIN

ENGAGEMENT IN OTHER SITUATIONS OF PARTICULAR CONCERN

In addition to the seven priority countries, the TOE is conducting background research and monitoring of additional countries. Currently, these include Libya, Burkina Faso, Syria and Somalia.

The TOE is currently establishing a dossier on Libya, based on consistent reports of sexual violence by the military against civilians. The TOE was briefed by a member of UNFPA who is currently deployed in Libya on the current challenges to address sexual violence in the country and by the Panel of Experts on Libya. The dossier, which will also include understanding the current legal framework of Libya, will help determine the type of support that could be provided to the country to address impunity. With regard to Burkina Faso, the TOE has been following closely the recent demonstrations by police and the military in several towns, which followed the arrest of a military official involved in a rape case. The TOE remains in touch with civil society organizations which have been monitoring and documenting the incidents. Similar attention is currently focused on Syria, aimed at establishing a dossier through close monitoring of the situation. Somalia similarly remains on the TOE's radar, given recent indications of a sharp increase in sexual violence in Galkayo and Galmadug areas, while the judiciary is increasingly reluctant to deal with the cases.



Photo: Kate Holt



Photo: IRIN

THE SCOPING STUDY OF EXPERTS ROSTERS



Photo: IRIN

Working through UNDP, the TOE contracted the Norwegian Refugee Council (NRC) on 4th April 2011 to undertake a scoping study of expert rosters on the relevance and the practicality of using United Nations roster systems and provide recommendations to determine the best method for identifying and recruiting consultants to complement the capacity of the TOE.

The NRC Roster Expert and the Senior Expert conducted a series of meetings in New York and Geneva with a range of interlocutors, including UN and NGOs, to better understand the overall context and perceptions of available capacity within the area of expertise relevant to the study.

NRC gathered information regarding possible existing capacity within existing rosters, and roster managers were interviewed with regard to technical aspects of roster management. The external rosters consulted were: DRC, RedR Australia, SAVE, FBA (coordinating the input from Swedish rosters), NORDEM, CANADEM, NORCAP, JRR, Swiss Expert Pool for Civilian Peacebuilding, IRC Surge, UNV, the Norwegian Capacity "Styrkebrønnen". While NRC submitted the progress report on 18 May, the final report will be submitted to UNDP during the first half of June 2011.

The Team has maintained regular contact with NRC to ensure that any lessons learned from the assessments in the field, as well as the requests received, could be taken into account in the study. Four meetings have been held with NRC experts in this regard.



FUNDRAISING EFFORTS

The TOE has mobilized US\$700,000 from the US State Department (Bureau of Democracy, Human Rights, and Labor) to assist the PSC in eastern Congo with expertise on sexual violence. It is also, in consultation with entities on the ground and the Government of DRC, finalizing a proposal to obtain a US\$500,000 contribution from USAID to support the deployment of 25 women magistrates to Grand Instance Tribunals in Bunia, Butembo, Goma, Bukavu and Uvira.

The Team developed a Resource Mobilization Strategy to help fundraise for its engagements. The strategy was developed to guide the TOE in reaching current and future financing targets by identifying short, medium and long term funding options available through traditional donors, United Nations funding mechanisms, and private donors. The Team has developed a programme of its activities for the next 24 months, which will be submitted to donors for funding in early June.

In the short-term, the Team has been exploring possible bridge funding options by contacting possible donors. This funding is necessary to carry out the work of the TOE beyond September 2011 when the UN Action funds will have exhausted. This would ensure that the TOE has the time necessary to develop and tap into medium and long-term funding sources. The Team has so far approached New Zealand, Belgium, Sweden, Estonia, USA and Germany.

A two page note has been produced, which presents the Team, its objectives, engagements and its funding needs. Similarly, the Team has used the Advisory Group meeting to push for support in its effort to mobilize resources. Other avenues being considered to mobilize resources are meetings such as the June 2011 UN Action focal points meeting in Oslo.



RESOURCES

During the reporting period, the TOE's operations were executed with funds solely provided by the UN Action MDTF which, for a period of six months, funded the Team's establishment, missions travel costs, etc. This amount serves as bridge to catalyse more sustainable sources of funding for the Team.

Funding Overview	
JOINT PROGRAMME PHASE I (JAN - SEP 2011)	
BUDGET	US\$999,328
CURRENT FUNDING:	
UN ACTION MDTF	US\$999,328
FUNDING GAP	0
JOINT PROGRAMME PHASE II (OCT 2011- SEP 2013)	
ESTIMATED BUDGET	US\$5,432,022
CURRENT FUNDING:	0
ESTIMATED FUNDING GAP	US\$5,432,022

OUTREACH

The TOE has engaged with various organisations, including Amnesty International, Physicians for Human Rights, Justice Rapid Response (JRR), Global rights, American Bar Association, Open Society Institute, etc. to explore possible collaboration.

The TOE is exploring possibilities to establish an informal forum of discussion on the work of the TOE, which will enable the Team to inform interested member states on its work through briefings following assessment missions or deployments. Initial discussions are being planned in mid-June 2011, between the Team and the Finish mission.

In the few months of its existence, the TOE is increasingly receiving requests for assistance and collaboration demonstrating the international community's awareness of the Team's services. The work of the TOE has also been noted in various national and international fora as well as in various media.

LESSONS LEARNED

One of the main constraints to the TOE has been the late recruitment of staff, as the Team could only be at its full strength by May 2011. In addition, reconciling resource mobilisation with field work has been a challenge that the Team is slowly overcoming.

During the reporting period, the TOE has learned the following key lessons:

Lesson no. 1: The need to build on the governments' own initiatives. Governments have had limited ownership of the various initiatives and programmes initiated by the international partners on the ground. These programmes have been many and complex administratively, many framed in English, including in French speaking countries, and often are no match for the limited capacity at national level. Such programmes are likely to be unsustainable.

Lesson no. 2: Most legal aid efforts have been victim focused without paying attention to the right to fair trial including the right to legal defence. While effectively upholding the rights of victims and survivors, not addressing such issues damage the very foundation of justice.

Lesson no. 3: There has been considerable focus on ensuring that the justice system delivers convictions with regard to sexual violence. However, the remaining challenge will consist of ensuring that court decisions are enforced. With the justice system in many conflict and post conflict countries marred with a lack of logistics, safe and secure judicial case recording and information storage, limited profiling of convicted perpetrators, poor penitentiary facilities, enforcing court decisions are difficult tasks.

Lesson no. 4: Police has been identified as one of the main entities in the justice chain with limited capacity and expertise, especially with regard to conducting proper investigations, and collecting and securing evidence with regard to sexual violence.

Lesson no. 5: There has been a strong focus on response to sexual violence and less on prevention. There has been little discussion about prevention thus most prevention efforts have been centred on sensitization and media activities.

Lesson no. 6: Another lesson has been the challenges faced by the UN and governments to collect, consolidate, analyse, share and protect data on sexual violence.

Lesson no. 7: Protection of witnesses and survivors, as well as of justice operators remain a challenge and clear policies mechanisms are yet to be established in this regard.

Lesson no. 8: Customary justice system still plays an important role in many post-conflict countries. And any support to the justice system should warrant deeper understanding of the customary justice system and its complexity.



The only Equipment in the Gbarnga Police Station.
Gbarnga, Liberia, 2011

PARTNERSHIPS

As set out in Security Resolution 1888, the Team assists the national authorities and institutions to strengthen the rule of law in coordination with national and international partners on the ground. While the Team can, as appropriate, assist in the identification of resources, their mobilization or in the development of budgeted projects, for sustainability purposes, it seeks to ensure that one (or more) co-lead entity(ies) is responsible for the implementation of such projects on the ground, while the TOE provides the necessary technical assistance.

DPKO, OHCHR and UNDP presence on the ground have played a key role in supporting the TOE's efforts to identify needs and gaps at national level and implement initiatives identified by the Team and agreed by partners on the ground to effectively deal with sexual violence. Assessment missions as well as findings of these assessments have received comments and inputs from the various entities, through the Team members or members of the Advisory Group. In addition, the Team has received strategic advice on planned engagements and on ways of mobilizing resources.

The work of the TOE has benefited from the following partnerships:

UN peace missions:

For instance, the assessment missions in the DRC and in Liberia, as well as the ongoing assistance to the Government of South Sudan were facilitated by the peace missions. In DRC, MONUSCO senior leadership ensured that the rule of law entities in the mission provided briefings, both in Kinshasa and in the field. The rule of law section coordinated the assessment mission, by assigning a focal point in Kinshasa and focal points in Bukavu and Goma. The office of the Deputy Special Representative of the Secretary-General (DSRSG) availed the necessary materials and programme documents to the Team. Challenges faced on the ground were openly discussed.



In Liberia, similar support was provided to the Team, by the Offices of the DSRSGs organizing the entire programme, setting up meetings and providing comprehensive briefings and mobilizing the entire UNCT to support the Team. The UN ensured that briefings provided to the TOE were comprehensive and open. For South Sudan, the TOE is preparing the contribution to the TCSS in coordination with UNMIS.

Because of such collaboration, the Team has been able to conduct successful assessments and identify areas for assistance to governments, and plan government assistance accordingly.

UNCT:

In both DRC and Liberia visits, the TOE received full support from the entire UN family, including UNDP, UNFPA, OHCHR, UNICEF, UN Women, etc. through briefings, provision of guidance and support of identification of gaps. UNFPA has comprehensively briefed the Team and provided useful information with regards to the situation in Libya.

National authorities and national partners:

The Ministries of Justice, Legal Affairs, Human Rights and Gender and National Human Rights Commissions, have been key to the work of the TOE. Our engagements with these entities have helped the Team identify the critical issues of capacity with the national mechanisms established to address sexual violence. They have also helped, together with discussions held with police, the military and the judiciary, in identifying key drivers to fighting impunity in the justice system. In addition, national and international organisations have helped the Team understand the challenges with regard to national ownership of prevention and response efforts. ■

FUTURE WORK PLAN

1. Assist the Government of DRC through provision of expertise to PSC.
2. Assist the Government of DRC to deploy women magistrates to Bunia, Goma, Butembo, Bukavu and Uvira, and ensure they are mentored to investigate and prosecute sexual violence cases.
3. Provide assistance to the Government of Liberia in developing sentencing guidelines for courts when passing sentences upon persons convicted of sexual violence crimes.
4. Provide technical expertise in the process of drafting the Children's Act to ensure the Act addresses the critical issues that have been left out of the Rape Law in the area of child protection.
5. Complementing the work of the task force led by the Law Reform Commission on the potential harmonization of statutory and customary law, in a way that is consistent with human rights norms and standards.
6. Possible embedment of expertise in the SGBV Crimes Unit, to mentor on prosecution.
7. Complement UNMIL's efforts by embedding experts, one in the LNP, through UNPOL, an international consultant, with mentoring expertise in criminal investigation and physical evidence gathering and one in a Circuit Court outside Montserrado to provide mentoring on prosecution.
8. Prepare briefing papers to be used by United Nations officials, including the Secretary-General, the SRSG-SVC and the SRSG in-country to negotiate the deployment of the TOE with the concerned governments.
9. Mobilise financial and human resources for the TOE for the long-term including for additional members for the Team.
10. Implementing recommendations from the experts roster scoping study by NRC and deploying experts in situations as appropriate.
11. Support the SRSG-SVC by providing expert advice and briefing notes to facilitate the implementation of her mandate, and provide briefings and updates to Member States, donors and civil society as necessary.
12. Raise awareness on the findings and recommendations of the TOE with regards to sexual violence in situations of armed conflict, within and outside the United Nations, through trainings, briefings, press releases, code cables, and communities of practice, newsletters and other means.
13. Offer to assist the Government of South Sudan in the drafting process of their legislation to ensure it builds on provisions that would help the Government address sexual violence.





OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON
SEXUAL VIOLENCE IN CONFLICT

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