

## **All Survivors Project**

### **Briefing to the UN Committee on the Rights of the Child**

### **7 June 2018**

#### **Introduction**

All Survivors Project (ASP) provides research to improve the global response to every survivor of sexual violence in situations of conflict and displacement. We document cases of abuse against men and boys to supplement work on girls and women to support a global response that includes all survivors of violence. All Survivors Project is an independent, international research organization working with individuals and organizations to strengthen communities by upholding the dignity of each individual.

The Committee on the Rights of the Child plays a unique role in monitoring compliance of states parties to the Convention. The Convention applies in situation of armed conflict, as well as in peacetime, and the Committee has often reviewed measures taken by states (and non-state armed groups) to respect and protect children's rights during armed conflict. In these contexts, the Committee has regularly raised concerns and made recommendations to address the lack of protection of all children against all forms of sexual violence.

This briefing draws on research conducted by ASP to provide an analysis of the main settings where boys are at risk of sexual violence in situations of armed conflict. The analysis is followed by a description of the relevant provisions of the Convention on the Rights of the Child and their interpretation by the Committee. The briefing provides suggested questions and recommendations for the Committee to consider while reviewing the record of states parties.

#### *Situations where sexual violence against boys occur during armed conflicts*

In conflict situations, all genders are vulnerable to sexual violence. Men and boys may be raped or subjected to other forms of sexual violence however this phenomenon is less well documented and understood as compared to sexual violence against women and girls. Nevertheless, since 2000 it has been documented in at least 25 countries from Latin and Central America, Africa, the Middle East and Asia and North America.<sup>1</sup>

ASP has documented sexual violence against boys in a variety of settings, including:

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<sup>1</sup>See for instance, Sivakumaran, *Sexual Violence Against Men in Armed Conflict*, 18(2) Eur. J. Int'l L. 253, 257-58 (2007); Tom Hennessey & Felicity Gerry, *International Human Rights Law and Sexual Violence Against Men in Conflict Zones*, *Halsbury's Law Exchange* 1, 6 (2010).

- **In detention:** The complex and challenging situations which are created in detention sites make individuals who are deprived of their liberty much more vulnerable to sexual violence. Much of the sexual violence against males in armed conflict is committed against men and boys in informal and formal detention sites. This can include various forms of detention and various categories of detainees: civilian internees, political activists and other individuals perceived as opponents of one or other party to the armed conflict on account of their opinions, activities, religion, ethnicity etc. ASP has documented sexual violence against boy detainees in Bosnia and Herzegovina, Sri Lanka and Syria.
- **During attacks against civilians and house raids:** Sexual violence against boys by security forces and armed groups often takes place during the course of armed attacks and incursions against civilians or perceived members of armed groups (for example in Central African Republic) or in-house raids in the context of security operations which include house searches and at check points (for example in Sri Lanka and Syria).
- **Being recruited or used in the ranks of armed forces or armed groups:** Boys, as well as girls, are particularly vulnerable to sexual violence when they are enlisted, conscripted or abducted into armed forces or armed groups. ASP has documented sexual violence against children associated with armed forces or groups in CAR and Syria. Disarmament, demobilisation and reintegration (DDR) processes may also pose risks for boys, for example in the context of cantonment settings or in rehabilitation facilities.
- **Situations of forced displacement:** Sexual violence against boys has been documented during flight within their country of origin or across borders, in formal and informal internally displaced persons (IDP) and refugee settlements, and in asylum situations in countries of refuge. Children who are separated from their families (also referred to as “unaccompanied children”) are particularly vulnerable in such situations. ASP has documented sexual violence against displaced and refugee boys in Turkey and in Syria.
- **Situations of humanitarian need caused by conflict:** ASP has documented specific situations of vulnerability created by severe livelihood challenges where women, girls, men and boys are at risk of sexual violence including in return for shelter and food, or other forms of “survival sex”. Although physical force may not be involved in such situations, levels of desperation and unequal power relations can constitute a significant form of coercion. ASP has received information of such cases of sexual violence taking place against boys in CAR and against Syrian refugee boys in Turkey.

#### *Gaps in legislation and policies to prevent and protect against sexual violence of boys*

Causes of sexual violence against boys in situation of armed conflict vary depending on the context, but there are some common failures by states, non-state armed groups and humanitarian actors which contribute to this serious abuse of children’s human rights.

These include:

- Lack of criminalisation of male rape and general impunity

National laws contain provisions or procedures which *de facto* promote impunity and prevent all victims of conflict related sexual violence from accessing justice. Existing national legal frameworks pose a significant challenge in allowing justice for male survivors of sexual violence as laws often discriminate against male victims, making it difficult, if not dangerous for survivors to come forward. According to the UN Secretary-General's 2016 Annual Report on Conflict-related Sexual Violence, a total of 62 countries still provide no legal protection for male rape victims and in 78 countries homosexuality is criminalised under national law.<sup>2</sup>

Laws that fail to recognise or proscribe sexual violence against boys (and men) not only contribute to impunity for such crimes but can also inform broader attitudes in which the possibility of rape or sexual violence against boys is denied and medical support, counselling and other essential services and support are less likely to be available to survivors.

For example, in Sri Lanka, a wholly inadequate legal framework also limits protection available to men and boys and undermines efforts to hold perpetrators to account. Sri Lankan law does not recognise and therefore does not proscribe male rape. Similarly, the prohibition of statutory rape applies only to girls (under the age of 16 years) and not to boys.

Even when laws are adequate, in situation of armed conflicts the gap between the laws and their enforcement is vast. This is particularly manifest in relation to sexual violence against boys: even where measures to prevent and respond to sexual violence have been put in place, they focus predominantly on women and girls, largely ignoring and in some cases excluding men and boys. In countries where male rape is not criminalised, lawyers are not trained to challenge legal frameworks which make it impossible for male victims to seek redress through the courts. Resultantly, the cycle of under-reporting, under-documenting and under-acknowledging sexual violence against men and boys has been perpetuated.<sup>3</sup>

- Lack of monitoring and reporting

There are particular challenges to documenting sexual violence against men and boys. In many contexts, gender norms that cast females as victims and males as perpetrators contribute to the invisibility of sexual violence against men and boys as an issue in communities, provoking stigma and fear that reinforces barriers to disclosure and help-seeking. These same biases influence policymakers and humanitarian agencies. Because of this, little attention has been given to the protection of men and boys, the impact on male survivors or their access to services and support. Medical, social, psychological/psychosocial, humanitarian and justice sector professionals are often ill-equipped to identify and address the legacies of male rape and other forms of sexual violence and could display attitudes which could further stigmatise and harm male survivors. Service providers are faced with a lack of safe spaces within which to work with clients, or appropriate services to which to refer them for further assistance.<sup>4</sup>

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<sup>2</sup> UN Security Council, Report of the Secretary-General on Conflict-related Sexual Violence, 20 April 2016, UN Doc. [S/2016/361](#), para. 9.

<sup>3</sup> Office of the Special Representative of the Secretary General on Sexual Violence in Conflict, Report of Workshop on Sexual Violence against Men and Boys in Conflict Situations, New York, 25-26 July 2013, accessed at: <https://www.slideshare.net/osrsgsvc/report-of-workshop-on-sexual-violence-against-men-and-boys-final>

<sup>4</sup> Office of the SRSO on Sexual Violence in Conflict, Report of the Workshop on Sexual Violence against Men and Boys in Conflict Situations, New York, 25-26 July 2013.

There should be a working assumption that sexual violence against boys is highly likely to be perpetrated in situations of armed conflict by both state and non-state armed groups. While there are particular challenges to documenting sexual violence against boys, the absence of reports does not necessarily mean that sexual violence has not occurred, but rather that there may be barriers that inhibit reporting.

- Lack of access to care and support

Survivors of sexual violence face huge difficulties in accessing care and support. The reasons can be manifold: a lack of adequate public services; prohibitive costs; insecurity which can interrupt services or prevent people from travelling to places where services are available; and stigma that prevents survivors from disclosing abuse. For men and boys, the fact that they are more likely to be perceived as perpetrators rather than victims creates additional obstacles to reporting or seeking care. Sexual violence against men and boys in conflict-related situations often takes place in a wider context of social vulnerabilities, abuse and exploitation.

Research conducted by ASP in CAR and Syria shows that men and boys are still largely left out of response mechanisms due to a range of diverse reasons which include the lack of community awareness or sensitisation on this issue, the lack of coordination mechanisms within the humanitarian community, the lack of capacity among responders to proactively identify male survivors and provide services that respond to their specific needs; and absence of training and evidence based studies and guidance on responding to the needs of men and boys who have been sexually victimised in situations of conflict and displacement. Existing international GBV guidance while gender inclusive in principle does not, in practice, analyse or address the specific realities, issues and needs experienced by men and boys or other gender minorities.

National strategy and action plans to address sexual violence could be a fundamental policy framework to inform and coordinate all interventions to prevent and respond to gender-based violence. In some cases, however, the needs of boys (and men) are overlooked. For example, ASP has analysed the draft National Strategy for Fighting Violence Based on Gender in the Central African Republic 2018-2021. If implemented, the proposed strategy will be of benefit to all victims and survivors of sexual violence. However, the draft version seen by ASP is primarily based on addressing the vulnerability of women and girls to sexual and gender-based violence and responding to the needs of women and girl survivors. If the National Strategy is to be fully effective, it must also recognise and address the vulnerabilities of males and include actions that explicitly include men and boys in responses.

## **Sexual violence against boys under the Convention on the Rights of the Child**

The Convention on the Rights of the Child contains a range of obligations on states parties to protect against sexual violence and abuse. The relevant provisions are gender-inclusive (which means that they are applicable to both girls and boys).

In particular, Article 19 provides the framework for the protection against physical and mental abuses, in the following terms: "State Parties shall take all appropriate legislative, administrative,

social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect of negligent treatment, maltreatment or exploitation, including sexual abuse...” (Article 19(1).) Article 19(2) defines the protective measures that State Parties should provide as including “...effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”

Article 34 additionally requires specific protection against sexual abuse. “*State Parties undertake to protect the child from all forms of sexual abuse*” including the inducement or coercion of a child to engage in any unlawful sexual activity or the exploitative use of children in prostitution and pornography (Article 34).

Beyond these two provisions, specific articles of the Convention are relevant to some of the situations where boys subjected to sexual violence, most notably Article 37 which protects against all forms of torture and ill-treatment; Article 38 which prohibits recruitment and use of children by state and non-state armed forces; Article 39 on the right of physical and psychological recovery and reintegration; Article 24 on the right to the highest attainable standards of health.

CRC Committee General Comment No. 13 on the Right of the Child to Freedom from All Forms of Violence provides a broad definition of violence against children which includes sexual abuse and exploitation. While the definition is gender neutral, the Committee notes the gender dimension of sexual violence, for example by noting that “both girls and boys are at risk of all forms of violence, but violence often has a gender component. For example, girls may experience more sexual violence at home than boys whereas boys may be more likely to encounter – and experience violence within – the criminal justice system.” (paragraph 19.)

The General Comment does not address specifically sexual violence in the context of armed conflict, but in places it refers to the particular vulnerability of children in armed conflict situations (see for example paragraph 3(i), “The Committee is also aware of...violence against children frequently used by armed groups and State military forces”, and paragraph 72(g), “Children in emergencies are extremely vulnerable to violence when, as a consequence of social and armed conflicts...children become separated from their caregivers and caregiving and safe environments are damaged or even destroyed”.)

### **Role of the Committee on the Rights of the Child in addressing sexual violence against boys**

The Committee can play a critical role in exposing the failure of states to prevent and address sexual violence against boys. Because of the near universal ratification of the Convention, and the broad scope of obligations to protect boys from sexual violence, including in situations of armed conflict, the Committee on the Rights of the Child is in a unique position to monitor and recommend both preventative and remedial actions against sexual violence against boys.

In its concluding observations concerning countries in situation of armed conflict (or post-conflict), the Committee has regularly raised concerns related to sexual violence of children. This analysis and recommendations tend to be framed in gender inclusive ways (and in some cases identifying girls as particularly targeted for sexual violence.)

For example, in its recommendations to the Central African Republic the Committee expressed serious concerns about “(a) Incidents of conflict-related sexual violence, exploitation and abuse of children by all parties to the conflict, including international military forces present in the State party in the framework of peacekeeping operations; (b) The limited support services provided to child victims; (c) Child victims being further stigmatized by their communities, rejected by their families or facing reprisals by perpetrators; (d) Girls being increasingly forced into transactional sex, also known as ‘survival sex’.”<sup>5</sup>

In its recommendations to the Democratic Republic of the Congo, the Committee recommended that the state party “Undertake a study of the extent and forms of sexual violence against and abuse of children both by civilians and in the context of the armed conflict and collect disaggregated data on gender-based violence **against girls** and on the number of complaints, prosecutions and convictions, and include such data in its next report.”<sup>6</sup>

Encouragingly the Committee has also begun to identify concerns and develop recommendations which are specific to boy survivors.

In its recommendations to Sri Lanka, the Committee noted with concern “The lack of legal recognition of male rape and underreporting of sexual abuse of boys because of stigmatization, criminalization of homosexuality and feelings of shame concerning so-called “emasculatation”,” and recommended the state party to “Take prompt measures to revise article 363 of the Penal Code to criminalize statutory rape of boys and take large-scale awareness-raising measures to encourage the reporting of rape of boys, to eliminate the associated stigma and to ensure accessible, confidential, child-friendly and effective channels for the reporting of such violations.”<sup>7</sup>

Similarly, on Samoa, the Committee raised concerns about “(c) The current legislation not criminalizing all forms of sexual acts against children as a separate crime and a definition of rape that is not gender-neutral;”<sup>8</sup>

ASP encourages the Committee on the Rights of the Child to deepen its interventions on the issue of sexual violence against boys by systematically addressing some of the main gaps in legislation and policies which contribute to sexual violence against boys in situations of armed conflict. By pro-actively requesting states parties and other stakeholders (most notably international humanitarian actors such as UNICEF, UNCHR, and other members of the child protection and protection sub-clusters) to provide information on sexual violence against boys,

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<sup>5</sup> UN Committee on the Rights of the Child Concluding Observations on the Second Periodic Report of the Central African Republic, 8 March 2017, UN Doc. [CRC/C/CAF/CO/2](#), para. 40.

<sup>6</sup> UN Committee on the Rights of the Child, Concluding Observations on the Combined Third to Fifth Periodic Reports of the Democratic Republic of the Congo, 28 February 2017, UN Doc. [CRC/C/COD/CO/3-5](#), para. 26.

<sup>7</sup> UN Committee on the Rights of the Child, Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Sri Lanka, 2 March 2018, UN Doc. [CRC/C/LKA/CO/5-6](#), paras. 23-24.

<sup>8</sup> UN Committee on the Rights of the Child, Concluding Observations on the Combined Second to Fourth Periodic Reports of Samoa, 12 July 2016, UN Doc. [CRC/C/WSM/CO/2-4](#), para. 32.

the Committee can significantly help to address the lack of reporting on sexual violence against boys. Further the Committee can recommend specific responses, by states and international humanitarian actors, to provide boy survivors with the medical and Mental Health and Psycho-Social (MHPSS) care they need for their recovery.

## **Questions**

ASP urges the Committee to ask states parties the following questions during their review of state reports:

- Is rape of men and boys proscribed in national law (either explicitly or through gender-inclusive language), and does national law recognize that acts of sexual violence can be perpetrated by both males and females? Is the definition of rape otherwise consistent with international standards?
- How are “other forms of sexual violence” defined in national law? Are the definitions gender-inclusive, and are they otherwise consistent with international standards?
- Do national strategy/action plans to combat sexual violence specifically respond to and provide for the needs of boy survivors?
- What medical and psychosocial services are available to boy survivors and who are they provided by?
- Is age-specific support available for boy survivors of sexual violence?

## **Recommendations**

ASP also encourages the Committee to consider the following recommendations, which would need adapting based on the various contexts:

- The issue of sexual violence against boys needs to be integrated into protection strategies and responses, such as national strategies and action plans to combat sexual violence, and resources should be dedicated to training and strengthening the capacity to address the needs of boy survivors.
- Laws relating to rape and other forms of sexual violence should provide legal protection to men and boys as well as women and girls.
- Legal safeguards should be enacted and implemented, and other prevention measures taken to protect detainees from sexual violence and from torture and other forms of ill-treatment or punishment during arrest and detention.
- Transitional justice processes should recognise that men and boys have frequently been specifically targeted for sexual violence, and transitional justice mechanisms should be designed and implemented such that the differing, but equally serious consequences of male and female sexual violence are addressed.
- Boy survivors of sexual violence and their families should have access to free legal services and other support to enable them to pursue justice and participate in criminal justice processes.
- Boy survivors of sexual violence should receive prompt treatment and support for physical, emotional, psychological and mental harms resulting from their victimisation.

- Specialised services for child survivors of sexual violence including boys should be developed. Special attention should be paid to children associated with armed forces and armed groups, unaccompanied children and other groups who may be at particular risk of sexual violence.
- All relevant national and international stakeholders should receive gender- inclusive training on how to respond to sexual violence, including the specific needs of boys.
- Data gathering on sexual violence against boys should be strengthened at the national and international level.
- Broader awareness of sexual violence against boys (and men) should be promoted to counter the stigma associated with it. All child survivors of sexual violence should have non-stigmatising, safe and confidential access to free and confidential services, including child appropriate and competent medical and psychosocial care and protection services.