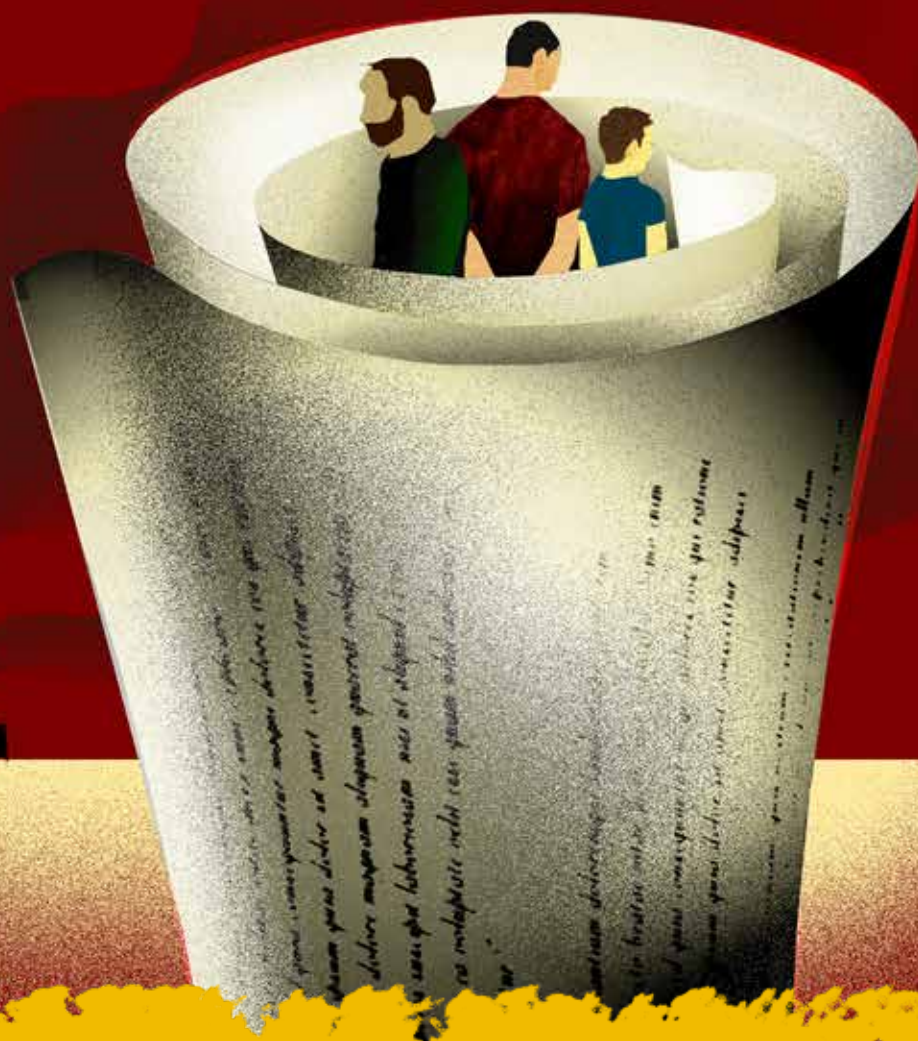


ALL SURVIVORS PROJECT



Checklist on preventing and
addressing conflict-related sexual
violence against men and boys

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ACRONYMS

BiH	Bosnia and Herzegovina
CAR	Central African Republic
CAT	(UN) Committee against Torture
CEDAW	Committee on the Elimination of Discrimination against Women
CRC	(UN) Committee on the Rights of the Child
DPKO	(UN) Department of Peacekeeping Operations
DRC	Democratic Republic of the Congo
GBVIMS	Gender-Based Violence Information Management System
HRC	(UN) Human Rights Committee
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICL	international criminal law
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IDP	internally displaced person
IHL	international humanitarian law
IHRL	international human rights law
IICI	Institute for International Criminal Investigation
I/NGO	international/non-governmental organisation
LGBTI	lesbian, gay, bisexual, transgender and intersex
MARA	(UN Security Council) Monitoring, Analysis and Reporting Arrangements on Conflict-Related Sexual Violence
MHPSS	Medical, mental health and psychosocial support
MRM	(UN Security Council) Monitoring and Reporting Mechanism on Grave Violations against Children
NHRI	national human rights institution
NSAG	non-state armed group
OHCHR	(UN) Office of the High Commissioner for Human Rights
OPAC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
OPCAT	Optional Protocol to the Convention against Torture
PSVI	(UK Government's) Preventing Sexual Violence Initiative
SGM	sexual and gender minority
UDHR	Universal Declaration of Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
WHO	World Health Organization

GLOSSARY

Conflict-related sexual violence refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilisation, forced marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. That link may be evident in the profile of the perpetrator, who is often affiliated with a state or non-state armed group, which includes terrorist entities; the profile of the victim/survivor, who is frequently an actual or perceived member of a political, ethnic or religious minority group or targeted on the basis of actual or perceived sexual orientation or gender identity; a climate of impunity, which is generally associated with state collapse; cross-border consequences such as displacement or trafficking; and/or violations of a ceasefire agreement. The term also encompasses trafficking in persons when committed in situations of conflict for the purpose of sexual violence or exploitation.¹

Sexual violence includes rapes, attempted rape, sexual mutilation, forced sterilisation, forced abortion, forced prostitution, trafficking for the purpose of sexual exploitation, child pornography, child prostitution, sexual slavery, forced marriage, forced pregnancy, forced nudity and forced virginity testing. It encompasses acts of a sexual nature against one or more persons, or acts that cause a person or persons to engage in an act of a sexual nature by force, threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against the victim(s)/survivor(s) or a third person, or by taking advantage of a coercive environment or the incapacity of the victim(s)/survivor(s) to give genuine consent.²

Rape is a form of sexual violence which, under the Rome Statute of the International Criminal Court (ICC) is defined as the invasion by the perpetrator of "the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent."³

Torture is defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."⁴

State security force refers to the full range of government armed forces, including national defence actors, paramilitary and civil defence forces, police, border guards and other official forces regulated by law. In addition, states can have responsibilities for armed groups that are backed by or allied to state armed forces but which are not regulated for in law or are not officially part of them, such as irregular paramilitary forces, "self-defence" militias, and armed opposition groups supported by a foreign state (see Question 6).

Non-state armed group (NSAG) refers to an armed group which is distinct from state security forces and which uses violence to pursue its political, religious, ideological or other objectives. The term encompasses many different types of entities from ill-defined, loosely structured groups to those with higher levels of organisation, command structures and/or some level of territorial control.

Victim/survivor in the context of this checklist refers to any child or adult who has suffered conflict-related sexual violence in whatever form, including being forced to witness conflict-related sexual violence against another person or persons. The term "victim/survivor" acknowledges that people who have experienced sexual violence may identify themselves as a victim or as a survivor and that each individual has the right to choose the most appropriate language to express their individual experience.

Sexual and gender minority (SGM) is an umbrella term used to refer to individuals whose identity, behaviour, attractions, expression and appearance are associated with the terms lesbian, gay, bisexual and/or transgender, and also includes individuals who may use locally accepted terms to identify themselves with a sexual or gender minority group. In the context of this checklist, SGM primarily refers to men and boys whose identity, sexual behaviour and desires, expression and appearance does not conform to social expectations associated with sexuality and gender. This reflects issues that have emerged in the work of All Survivors Project (ASP) which has focused on conflict-related sexual violence directed against males. However, this should not be construed to suggest that lesbian and bisexual females or intersex and trans people are not equally susceptible to conflict-related sexual violence or that measures are not also needed to ensure their protection, care and support.

Sexual orientation and gender identity Sexual orientation refers to a person's physical, romantic and/or emotional attraction towards other people,⁵ whereas gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other gender expressions, including dress, speech and mannerisms.⁶

1 Based on the definition in Report of the Secretary-General on conflict-related sexual violence, UN Doc. S/2019/280 (2019) (hereinafter Report of the Secretary-General on conflict-related sexual violence, 2019).

2 Based on the definition contained in Office of the High Commissioner for Human Rights (OHCHR), *Integrating a Gender Perspective into Human Rights Investigations*, 2018, see Appendix for weblink.

3 Rome Statute of the ICC, Elements 1 and 2 of the Elements of Crimes relating to Article 7.1.g; Articles 8.2.b.xxii and 8.2.e.vi.

4 Article 1 of the UN Convention against Torture.

5 See UN, *Living Free and Equal: What States Are Doing to Tackle Violence and Discrimination against Lesbian, Gay, Bisexual, Transgender And Intersex People*, 2016, (hereinafter UN, *Living Free and Equal*, 2016), see Appendix for weblink.

6 See Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, UN Doc. A/73/152 (2018), referencing Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity.

INTRODUCTION TO AND PURPOSE OF THE CHECKLIST

The pervasive nature and appalling consequences of sexual violence against women and girls in situations of armed conflict is well established. Although women and girls are disproportionately affected, the extent to which conflict-related sexual violence impacts men and boys is also increasingly recognised. Rape and other forms of sexual violence involving males perpetrated by state security forces or non-state armed groups (NSAGs) has been documented in at least 30 different states affected by armed conflict in recent years.⁷

Men and boys can be vulnerable to opportunistic attacks as well as to targeted sexual violence aimed at punishing, humiliating, terrorising and repressing victims/survivors and their communities. Multiple factors can increase their vulnerability including political affiliation, religion, ethnicity, age, actual or perceived sexual orientation and gender identity, disability and socio-economic status.

Although sexual violence against men and boys has been documented in many different situations, including during armed attacks, house searches and at checkpoints, available information suggests that the risks are significantly heightened in certain settings. This is particularly so when they are deprived of their liberty or when they are associated with or are members of state security forces or NSAGs. Forced displacement, whether within or across national borders, as well as situations of extreme humanitarian need can also increase male vulnerability to sexual violence by parties to armed conflict, as well as by others including peacekeepers, humanitarian workers, members of organised crime groups (such as human traffickers), smugglers and community members.

Ongoing efforts to protect women and girls from conflict-related sexual violence show that there are no quick fixes. Rather, prevention requires multi-faceted approaches that address both proximate and root causes, including gender-based discrimination and inequality. To be successful, concerted and co-ordinated efforts by many diverse state and non-state actors are needed. However, national authorities have particular responsibilities to respect and promote the human rights of all individuals within their territory and/or jurisdiction. States must therefore take all feasible steps to protect against and ensure appropriate responses to conflict-related sexual violence, whomever the perpetrator.

All Survivors Project (ASP) has developed this checklist on preventing and addressing sexual violence against men and boys to assist governments and those involved in supporting them (amongst others, national human rights institutions (NHRIs); UN peacekeeping and other field operations; UN agencies, offices, experts, treaty bodies and special procedures; and international and national non-governmental organisations (I/NGOs) to support national efforts to prevent and respond to conflict-related sexual violence against males.

This checklist is intended to complement ongoing vital and urgently needed efforts to better protect women and girls against conflict-related sexual violence, from which attention to others at risk should not distract or detract. Rather, its aim is to support efforts to ensure that men and boys are protected against conflict-related sexual violence in law and practice; that national policies and other measures aimed at eradicating such abuses recognise and respond to the risks and vulnerabilities of all persons; and that all survivors have access to justice including reparations, as well as to quality, survivor-centred medical, mental health and psychosocial support (MHPSS) and other responses without discrimination.

The checklist is based on ASP's research on conflict-related sexual violence against men and boys, including field research in Afghanistan, Central African Republic (CAR), Bosnia and Herzegovina (BiH), Syria, Sri Lanka and Turkey, as well as reviews of national laws in selected conflict-affected countries and publicly available national action plans and other policy documents. It also draws on secondary research on conflict-related sexual violence and responses to it in reports, briefings, guidelines, protocols and other publications by UN bodies, mechanisms, agencies and experts, international criminal tribunals, I/NGOs, initiatives such as the UK Government's Preventing Sexual Violence Initiative (PSVI) and academic sources.

Experts on human rights and armed conflict, the rights of sexual and gender minority (SGM) persons, and international criminal justice were consulted in the drafting of the checklist (see acknowledgements). In addition, a draft version of the checklist was reviewed by and comments received from representatives of the International Committee of the Red Cross (ICRC); the Office of the UN High Commissioner for Human Rights (OHCHR); the Office of the Special Representative of the UN Secretary-General for Children and Armed Conflict; the Office of the Special Representative of the UN Secretary-General on Sexual Violence in Conflict; the UN Department of Peacekeeping Operations (DPKO); United Nations High Commissioner for Refugees (UNHCR); and the UN Team of Experts on the Rule of Law and Sexual Violence in Conflict. However, ASP is responsible for the final content of the checklist.

7 These include Afghanistan, Bosnia and Herzegovina (BiH), Burundi, Central African Republic (CAR), Colombia, Côte d'Ivoire, Democratic Republic of the Congo (DRC), El Salvador, Guatemala, Indonesia/Timor-Leste (with reference to incidents documented during Indonesia's occupation of Timor-Leste from 1975 to 1999), Iraq, Israel, Liberia, Libya, Mali, Myanmar, Niger, Nigeria, Peru, Russian Federation (Chechnya and Crimea), Rwanda, Sierra Leone, Somalia, South Sudan, Sri Lanka, Sudan (Darfur), Syria, Uganda, Ukraine (including the Autonomous Republic of Crimea) and Yemen. Sexual violence against men and boys has also been reported in situations of political violence or repression such as in Argentina, Chile, Kenya, South Africa and Venezuela. See relevant questions for sources of information on specific countries.

Checklist format

The checklist is structured around 10 inter-related questions, each of which focuses on one element of prevention or response to conflict-related sexual violence. Part I of the checklist focuses on state obligations to take legal, administrative and other measures to prevent and end conflict-related sexual violence:

- Question 1: Do national legislative frameworks provide men and boys with legal protection against rape and other forms of sexual violence?
- Question 2: Is conflict-related sexual violence against men and boys integrated into data collection, analysis and reporting processes?
- Question 3: Do national action plans and strategies recognise conflict-related sexual violence against men and boys and include measures to prevent and respond to it?
- Question 4: Is conflict-related sexual violence against men and boys addressed in training and information and communication initiatives?
- Question 5: Do internal policies and regulations of the military and police prohibit and sanction sexual violence against men and boys?
- Question 6: Have measures been taken to protect men and boys against sexual violence by non-state armed groups?
- Question 7: Is conflict-related sexual violence against men and boys factored into protection strategies?

Part II covers due diligence obligations of states to investigate, punish and ensure redress for conflict-related sexual violence and to fulfil the right to health of victims/survivors by providing health care and other assistance to respond to physical, mental and other harms resulting from sexual violence.

- Question 8: Are laws, procedures, expertise and capacity in place to effectively investigate and prosecute conflict-related sexual violence against men and boys?
- Question 9: Is conflict-related sexual violence against men and boys addressed in truth-seeking processes and reparations programmes?
- Question 10: Do male victims/survivors of conflict-related sexual violence have access to medical care, mental health and psychosocial support?

Key concerns are highlighted under each question together with a summary of relevant international standards and jurisprudence. Where available, examples of good or promising practice are given to illustrate how states have responded to an issue or where progress has been made.⁸ These are followed by recommended actions which represent the minimum steps that states should take. Sources for more detailed guidance can be found in footnotes and a non-exhaustive list of guidance on specific topics covered is also provided in the appendix.

PROHIBITIONS ON SEXUAL VIOLENCE UNDER INTERNATIONAL LAW

Rape and other forms of sexual violence are prohibited under international human rights law (IHRL) and international humanitarian law (IHL). They can also constitute war crimes, crimes against humanity and genocide under international criminal law (ICL) where elements of these categories of crimes are satisfied.

International human rights treaties require states that are party to them to take measures to prevent and respond to rape and other forms of sexual violence. Sexual violence has been interpreted by the Committee against Torture (CAT) as among the prohibited acts under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). The CAT has confirmed that males "are also subject to certain gendered violations of the Convention such as rape or sexual violence and abuse".⁹ Article 7 of the International Covenant on Civil and Political Rights (ICCPR) also prohibits torture and other cruel, inhuman or degrading treatment or punishment. This has been interpreted by the UN Human Rights Committee (HRC) to include sexual violence in armed conflict.¹⁰ These protections are applicable at all times and cannot be derogated from even in times of emergency or armed conflict.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides protection against sexual and gender-based violence, including by establishing safeguards against sexual violence as a result of gender-based discrimination.¹¹ Under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), states parties are required to guarantee security of person and protection against violence or bodily harm, without distinction as to race, colour, or national or ethnic origin (Article 5(b)).

Children, defined as persons under the age of 18 years old, are entitled to special protections and states that are party to the Convention on the Rights of the Child must take measures to protect them from all forms of physical or mental violence, including sexual abuse (Article 19(1)) and all forms of sexual exploitation and abuse (Article 34), as well as torture and other ill-treatment (Article 37(a)).

Various **regional human rights treaties** also include prohibitions on sexual violence and require states parties to take actions to prevent it. Torture and other cruel, inhuman or degrading treatment, which can include sexual violence, is prohibited under the African Charter on Human and Peoples' Rights (Article 5); the American Convention on Human Rights (Article 5); the Inter-American Convention to Prevent and Punish Torture (Article 2); and the Arab Charter on Human Rights (Article 8).¹² The African Charter on the Rights and Welfare of the Child also requires specific legislative, administrative, social and educational measures to protect children from sexual abuse as well as sexual exploitation (Articles 16 and 27)

International humanitarian law (the 1949 Geneva Conventions and their 1977 Additional Protocols) contains provisions that prohibit sexual violence, including express prohibitions of rape. Additional Protocol II is the first IHL treaty in which rape is expressly prohibited without distinction between men and women (Article 4(2)e)). Customary IHL has confirmed that rape and other forms of sexual violence in both international and non-international armed conflicts are prohibited (Rule 93 of the ICRC *Customary IHL Study*) and that, in practice, the prohibition of sexual violence is non-discriminatory, applying equally to men and women, as well as to adults and children.¹³

The definition of rape and other forms of sexual violence under **international criminal law** is established under the Rome Statute of the International Criminal Court (ICC). Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, and other forms of sexual violence are explicitly recognised as distinct offences, which can be investigated and prosecuted as war crimes (Articles 8(2)b(xxii) and 8(2)e(vi)). These or any other form of sexual violence of comparable gravity, as well as persecution on the basis of gender when committed as part of a widespread or systematic attack directed against any civilian population, constitute crimes against humanity (Articles 7(1)g and 7(1)h). Rape and sexual violence may also constitute an act of genocide.¹⁴ All these crimes (with the exception of forced pregnancy) apply to all victims/survivors.

Responsibilities of non-state armed groups under international law

While states bear primary responsibility for protection of human rights on their territory and are bound by treaties to which they are party and by customary international law to take all feasible measures to prevent violations, non-state parties to armed conflict are also required to comply with certain obligations applicable to them under IHRL and IHL.

It is generally accepted that IHL related to non-international armed conflicts, in particular the provisions contained in common Article 3 of the Geneva Conventions and, when applicable, Protocol II, applies to all parties to such a conflict including NSAGs, as do prohibitions on rape and other forms of sexual violence under customary IHL.¹⁵ There is also emerging consensus that organised NSAGs exercising some degree of control over territory and populations within that territory can also be bound by IHRL. More generally, NSAGs have been called on to respect IHRL and to take measures to end all acts of sexual violence.¹⁶ Individual members of NSAGs, including those in positions of command responsibilities, are liable to prosecution for international crimes of rape and other forms of sexual violence.¹⁷

8 The inclusion of an example of good or promising practice from a certain country does not necessarily mean that law, policy or practice in that state is fully compliant with international standards.

9 The CAT is the UN body responsible for monitoring the implementation of the Convention against Torture by state parties. See CAT, General Comment No. 2 on the Implementation of Article 2 by States Parties, UN Doc. CAT/C/GC/2 (2008).

10 The HRC is the UN body responsible for monitoring the implementation of the ICCPR by state parties. See for example HRC Concluding Observations on periodic reports of the DRC, UN Doc. CCPR/C/COD/CO/4, (2017), and of Colombia, UN Doc. CCPR/C/COL/CO/7 (2016).

11 See Committee on the Elimination of Discrimination against Women (CEDAW) General Recommendations No. 30 on women in conflict prevention, conflict and post-conflict situations (2013); and CEDAW General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (2017)

12 Explicit prohibitions on sexual violence against women can be found in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. Jurisprudence by regional human rights courts include: *Raquel Martin de Mejia v. Peru*, Case 10.970, Inter-Am.C.H.R., Report No. 5/96 (1996); *Miguel Castro-Castro Prison v. Peru*, Inter-Am Ct. H.R. (ser. C) No. 160 (, 25 November 2006); *Aydin v. Turkey*, 25 EHRR 251 (1988); and *M.C. v. Bulgaria*, ECHR 646 (, 2003). For further details see Patricia Viseur Sellers, *The Prosecution of Sexual Violence in Conflict: the Importance of Human Rights as a Means of Interpretation*, 2007, [www.un.org/ruleoflaw/files/Paper_Prosecution_of_Sexual_Violence\[1\].pdf](http://www.un.org/ruleoflaw/files/Paper_Prosecution_of_Sexual_Violence[1].pdf)

13 ICRC *Customary IHL Study*, Rule 93, www.icrc.org/en/document/update-customary-ihl-database-2018

14 *Prosecutor v. Jean-Paul Akayesu*, Trial Judgment, (ICTR-96-4-T), International Criminal Tribunal for Rwanda (ICTR) (1998), para. 731.

15 See Jann K. Kleffner, "The applicability of international humanitarian law to organized armed groups", in *International Review of the Red Cross*, Volume 93, No. 882, June 2011. See also ICRC, Commentary on the Geneva Conventions and Additional Protocols, 2016, www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions-and-icrc-International-Humanitarian-Law-and-the-challenges-of-contemporary-armed-conflicts, 2011, www.icrc.org/en/doc/resources/documents/report/31-international-conference-ihl-challenges-report-2011-10-31.htm

16 See for example UN Security Council resolutions, 1820 (2008), 1888 (2009), 1960 (2010), 2106 (2013), 2242 (2015) and 2467 (2019), all of which recognise that states bear the primary responsibility to respect and ensure the human rights of all persons within their territory and subject to their jurisdiction as provided for by international law, and also reaffirm that parties to armed conflict bear the primary responsibility to ensure the protection of civilians.

17 For further discussion of IHRL obligations of NSAGs see OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, 2011, www.ohchr.org/Documents/Publications/HR_in_armed_conflict.pdf

PART I:

PREVENTING CONFLICT-RELATED SEXUAL VIOLENCE AGAINST MEN AND BOYS

Under IHRL, states are required to refrain from violating human rights and must also take steps to prevent human rights abuses, including sexual violence, and to protect individuals from such violence. Human rights treaties including the ICCPR, Convention against Torture, Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Rights of the Child and the ICERD require states to take legislative, administrative and other necessary steps to ensure their effective implementation. These obligations have been elaborated in jurisprudence from UN treaty bodies and special procedures over time.¹⁸ State parties to the Geneva Conventions and Additional Protocols (and NSAGs, to which this law also applies – see Question 6), also have a duty to take legal and practical measures – both in peacetime and in situations of armed conflict – aimed at ensuring full compliance with this body of law.

UN Security Council resolutions, including those relating to children and armed conflict and women, peace and security, have repeatedly called for preventative measures by parties to armed conflicts to protect against conflict-related sexual violence, and the UN Secretary-General has called on UN member states to put in place constitutional, legislative and institutional arrangements to comprehensively address conflict-related sexual violence and prevent its recurrence.

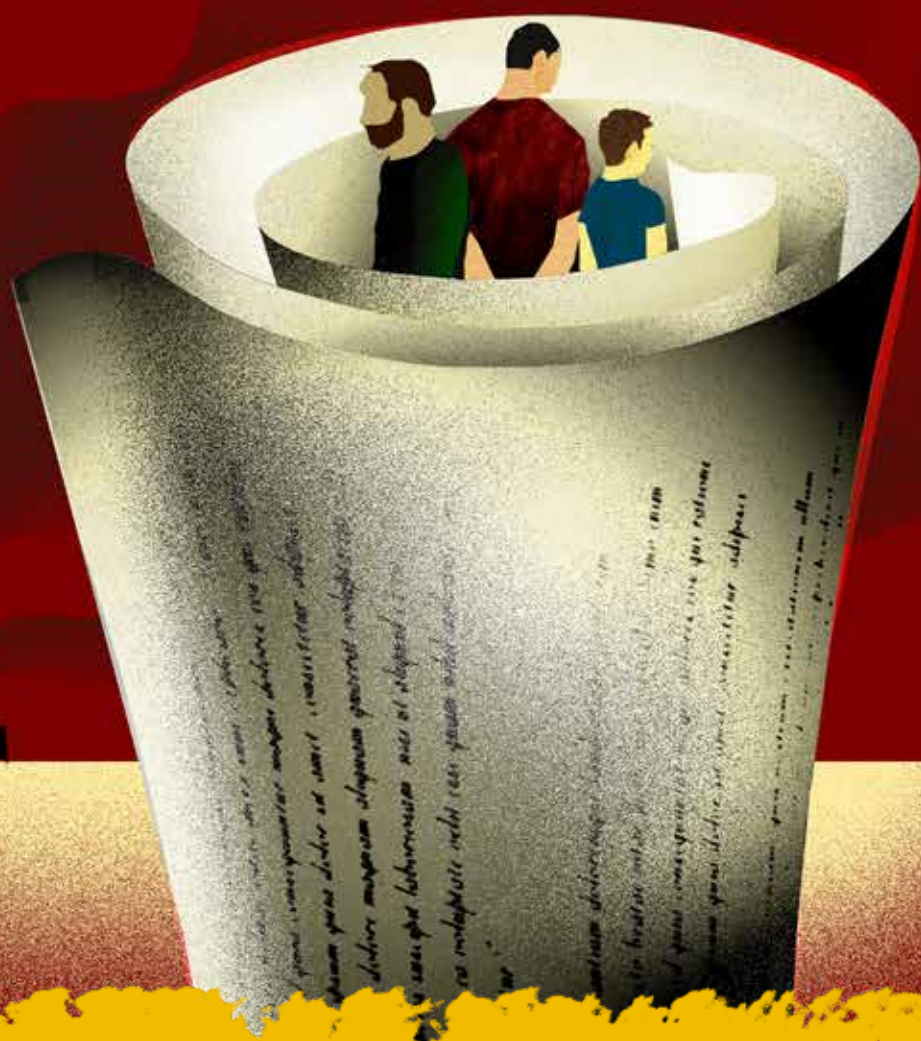
The UN Security Council has also encouraged states to adopt a survivor-centred approach and to ensure *“that prevention and response are non-discriminatory and specific, and respect the rights and prioritize needs of survivors, including groups that are particularly vulnerable or may be specifically targeted.”*¹⁹ The UN Secretary-General has explicitly stressed the need for attention to specific categories of persons including *“ethnic and religious minority groups, women in rural or remote areas, displaced populations, persons with disabilities, male survivors, women and children associated with armed groups, women and children released from situations of captivity, forced marriage, sexual slavery and trafficking by armed groups, and lesbian, gay, bisexual, transgender and intersex persons.”*²⁰

Within this framework, the following seven questions set out key measures that states should take, with the support of others where necessary, to enhance the protection of men and boys against conflict-related sexual violence.

18 Inter alia, HRC, General Comment No. 20, Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, Article 7 (1992); HRC, General Comment No.31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant (2004); CAT, General Comment No. 2, on the Implementation of Article 2 by States Parties, UN Doc. CAT/C/GC/2 (2008); CEDAW, General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, 2013, and General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19; CRC, General comment No. 13, The right of the child to freedom from all forms of violence (2013).

19 UN Security Council resolution 2467 (2019). According to analysis of the relevant paragraph (operational para. 16), the reference to “groups that are particularly vulnerable or may be specifically targeted” implicitly includes SGM persons. See London School of Economics and Political Science, *Commentary on Security Council Resolution 2467: Continued State Obligations and Civil Society Action on Sexual Violence in Conflict*, 2019, www.lse.ac.uk/women-peace-security/assets/documents/2019/reports/WPS-Commentary-Report-online.pdf

20 Report of the Secretary-General on conflict-related sexual violence, UN Doc. S/2018/250 (2018) (hereinafter Report of the Secretary-General on conflict-related sexual violence, 2018).



QUESTION 1: DO NATIONAL LEGISLATIVE FRAMEWORKS PROVIDE MEN AND BOYS WITH LEGAL PROTECTION AGAINST RAPE AND OTHER FORMS OF SEXUAL VIOLENCE?

Laws that fail to proscribe rape and other forms of sexual violence against men and boys deny them legal protections and contribute to impunity for these abuses. Lack of recognition in law can also inform broader social attitudes in which male victims/survivors are not acknowledged and the stigma surrounding sexual violence against males is exacerbated.

Non-inclusive laws can also deny SGMs recognition as potential victims of sexual violence and thereby exclude them from legal protection and access to justice. Additionally, discriminatory laws which criminalise consensual same-sex relations can contribute to an environment where the risk of sexual violence against SGM persons is heightened. Such laws can also discourage disclosure by SGM survivors, as well as by men and boys who fear being labelled as homosexual, thereby acting as a barrier to seeking and receiving medical and other support.²¹

The UN Security Council has urged states to recognise the equal rights of all individuals affected by sexual violence in armed conflict in national legislation.²² The deterrent effect of robust laws which carry punishments consistent with the gravity of the crime is also recognised. In CAR, for example, although much progress is still needed to eliminate and ensure accountability for conflict-related sexual violence, the re-qualification in 2016 of sexual violence crimes from misdemeanours or minor offences to criminal offences by the Ministry of Justice recognised the necessity of stronger sanctions as part of efforts to deter such crimes.²³

Increased attention to the issue of sexual violence in situations of armed conflict, together with the availability of technical and other support available to states through the UN, I/NGOs and other experts, is contributing to a positive trend towards the development of national legal frameworks that better reflect international standards and provide stronger legal protection against sexual violence to all persons without discrimination. Nevertheless, in many countries rape and sexual violence directed at males is still not criminalised and/or laws exist that can heighten vulnerability to sexual violence of men and boys including those who belong, or who are perceived as belonging, to SGMs.

Ratifying relevant international and regional treaties

As a first and necessary step towards preventing conflict-related sexual violence, states should ratify core international human rights treaties and relevant regional treaties, the Geneva Conventions and their Additional Protocols and the Rome Statute of the ICC. These treaties should be incorporated into or otherwise implemented in domestic law and legislative and administrative procedures and other appropriate measures should be adopted to ensure fair, effective and prompt access to justice where violations occur.²⁴



Is the state a party to the ICCPR, the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the ICERD, the 1949 Geneva Conventions and their Additional Protocols of 1977, the Rome Statute of the ICC and other relevant international and regional treaties?

Ensuring protection for men and boys in national laws on rape

National laws on rape must be gender-inclusive.²⁵ The definition of rape should be in line with internationally established definitions and legislation,²⁶ and laws should protect against rape and sexual violence perpetrated by state officials or others acting on behalf of the state, as well as by non-state actors and other private individuals.²⁷ When acts of torture involve rape, legislation should allow the cumulative prosecution of the crimes of torture and rape. IHL and ICL also require states to criminalise rape and other forms of sexual violence of similar gravity as war crimes when committed in situations of armed conflict and as crimes against humanity when committed as part of a widespread or systematic attack against civilians.²⁸

Since a 2014 survey of national penal codes found that in 62 countries only female victims of rape were recognised, a number of states have revised or adopted legislation to incorporate gender-inclusive definitions of rape.²⁹ For example, under revised penal codes in Afghanistan and Rwanda adopted in 2017 and 2018 respectively, rape can be committed by any "person" against any other "person". In both countries rape is now also defined comprehensively, and open-ended and non-exhaustive lists of the various forms and ways in which coercion can be applied are included.³⁰ Their legislation also recognises rape (and other forms of sexual violence) as a war crime and a crime against humanity.

Although being forced to rape others – often female relatives and fellow-detainees – is a common form of sexual violence in situations of armed conflict, it is not clearly included in definitions of rape under international criminal law. Nevertheless, international tribunals and some national courts have recognised that forced sexual acts between males, including forced oral sex between two or more victims, constitutes sexual violence, and that the individuals who have been forced to commit the act are themselves victims of sexual violence.³¹ Legislation in many countries also recognises types of individual criminal responsibility that apply to persons who coerce, incite or threaten others to commit a crime. Turkey's Criminal Code, for example, provides that: "No punishment is imposed to a person who commits an offense as a result of intolerable or inevitable violence, or serious menace or gross threat. In such cases, the person involved in violence, menace and threat is considered as the offender."³²

- Is rape proscribed in national laws in a gender-inclusive manner and is the definition of rape consistent with international standards and inclusive of the concept of enforced rape?
- Is the crime of rape recognised in national law as a war crime, a crime against humanity and an element of genocide?

Ensuring protection for men and boys in national laws on sexual violence

In addition to rape, men and boys can suffer multiple other forms of sexual violence in situations of armed conflict including, but not limited to, enforced sterilisation, castration and other forms of sexual mutilation; genital violence including blunt trauma, applying electric shocks to the genitals and forced circumcision; forced nudity; forced masturbation; other forms of sexual humiliation; forced witnessing of rape and sexual violence against others including female relatives; sexual slavery; and forced prostitution.³³ National laws should therefore include expansive, non-exhaustive definitions of sexual violence that are gender inclusive.

States have adopted different approaches to criminalising acts of sexual violence other than rape. In some cases legislation is imprecise or uses gendered stereotyped notions/terms such as "attack on honour" or "indecent assault" which do not adequately define the criminal conduct. However, elsewhere crimes of sexual violence are more explicitly defined. For example, Colombia's criminal code includes crimes of sexual violence specifically in the context of armed conflict, including rape and other forms of sexual violence including forced nudity, forced prostitution, sexual slavery, and trafficking for the purpose of sexual exploitation.³⁴ A new bill on sexual offences in Somalia also includes a wide range of sexual offences including sexual assault, sexual exploitation, sexual slavery, sex trafficking, forced marriage, abduction for sexual purposes, as well as "causing" someone to engage in sexual activities.³⁵ Under amendments to Turkey's criminal code in 2014, gender-inclusive language is used in provisions relating to sexual assault (defined as violations of "the bodily integrity of another through any sexual act") as well as rape.³⁶

- Are crimes of sexual violence (other than rape) comprehensively defined and proscribed in national laws in a gender-inclusive manner?
- Do national laws include crimes of sexual violence that include, but are not limited to, enforced sterilisation (including castration and other forms of sexual mutilation), genital violence (including blunt trauma, applying electric shocks to genitals, and forced circumcision), forced nudity, forced masturbation, other forms of sexual humiliation, sexual slavery, forced prostitution, and other forms of sexual violence of comparable gravity?
- Do national laws recognise sexual violence as a war crime, a crime against humanity and an element of genocide?

Decriminalising same-sex relationships

Under IHRL, consensual, same-sex relationships between adults must never be criminalised or otherwise punished. Doing so breaches states' obligations under international law, including the obligations to protect individual privacy and to guarantee non-discrimination.³⁷

The HRC and other human rights mechanisms and experts have repeatedly urged states to reform laws criminalising consensual same-sex conduct and a significant number of states have done so over recent decades.³⁸ However, it remains criminalised in many countries and severe punishments including imprisonment and the death penalty are imposed in some states.³⁹

Where same-sex relations are criminalised, legislation in some countries prohibits specific sexual acts. In others, prohibited acts can include "acts against nature", "indecency" or other vague terms which places broad discretion in the hands of law enforcement agencies and prosecuting authorities. Most laws criminalising same-sex relations apply to all genders, but some apply only to men or only to women.⁴⁰ Such laws, in addition to being discriminatory, can tacitly encourage violence and can deter survivors of sexual violence from seeking justice or medical and other support for fear of being arrested and prosecuted. This is particularly so for SGM victims/survivors but also applies to male victims/survivors who may fear being labelled homosexual and being prosecuted as such.

Other discriminatory laws, such as prohibitions on the dissemination of information about and discussion of SGM rights or restrictions on SGM groups and/or their activities, can also foster an environment of heightened risk of sexual violence against SGM persons or those who are perceived as non-conforming within prevalent or existing notions of sexual orientation and gender identity. Such laws can also impede efforts to provide assistance to victims/survivors, including because they can prevent service providers, civil society organisations and others from performing their legitimate roles to support victims/survivors and place them at risk of create risk arrest, detention and other human rights violations if they do.⁴¹ Conversely, a strong legal framework that explicitly prohibits discrimination on the basis of sexual orientation and gender identity and provides legal recognition to all persons can contribute to creating a more protective environment.



Have consensual same-sex relations between adults been decriminalised under national law?



Do national laws prohibit discrimination against all persons including on the basis of sexual orientation and gender identity, and are the rights of SGM persons and those providing support to them to freedom of expression and association protected?

Removing statutes of limitations, immunities and amnesties for rape and sexual violence

Other legal provisions or procedures can limit protection and hamper victims/survivors of sexual violence from seeking justice. While not gender specific, statutes of limitations, legal immunities and amnesties for serious violations of international law including sexual violence remove the deterrent effect of laws by facilitating impunity for perpetrators and denying victims/survivors the right to remedy (see also Questions 8 and 9).

Under international law there should be no statute of limitations for genocide, crimes against humanity, war crimes and other serious crimes under international law, including rape and other forms of sexual violence. There should also be no immunities for rape and other acts of sexual violence or defences of superior order which could preclude their prosecution.⁴² Amnesties for such crimes are also inconsistent with the obligations of states under various sources of international law as well as with UN policies.⁴³

Some states have codified such prohibitions in law. For example, Burundi's criminal code specifies that rape and other crimes of sexual violence are not subject to a statute of limitations and that perpetrators cannot enjoy amnesties or pardon. It further establishes command responsibility and disallows the defence of superior order to prevent prosecution of the crimes of rape and other acts of sexual violence.⁴⁴ Under Mali's criminal code, genocide, crimes against humanity and war crimes are also not subject to a statute of limitations and, in a Joint Communiqué to prevent and address conflict-related sexual violence signed between the Government of Mali and the UN in March 2019, the government committed to ensuring that perpetrators of crimes of sexual violence will be excluded from any future amnesties.⁴⁵ In Colombia, the November 2016 peace agreement between the government and the Revolutionary Armed Forces of

Colombia – People’s Army (FARC-EP) explicitly rules out amnesties for war crimes, crimes against humanity and genocide, including rape and other forms of sexual violence. Under Colombia’s criminal code there is also no statute of limitations for genocide, crimes against humanity and war crimes, although a limitation of 20 years is set for ordinary crimes related to sexual violence.⁴⁶

Can rape and other crimes of conflict-related sexual violence be prosecuted at any time without being subject to a statute of limitations?

Are immunities, defences from prosecutions and amnesties prohibited for rape and other crimes of conflict-related sexual violence?

Notes

- 21 See Preventing Sexual Violence Initiative (PSVI), *Principles for Global Action on tackling the stigma of Sexual Violence in Conflict*, 19 September 2017, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/645636/PSVI_Principles_for_Global_Action.pdf
- 22 UN Security Council resolution 2467 (2019).
- 23 Report of the Secretary-General on conflict-related sexual violence, UN Doc. S/2017/249 (2017)
- 24 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (hereinafter Basic Principles on the Right to Remedy), adopted by the UN General Assembly, 16 December 2005, Principle II.
- 25 The Rome Statute of the ICC uses terms such as “person” and “perpetrator”. The Institute for International Criminal Investigation’s (IICI) *Guidelines for Investigating Conflict-Related Sexual and Gender-Based Violence Against Men and Boys* (2016), notes that relevant frameworks should reflect principles of inclusivity and impartiality and that depending on the specifics of the context and issue at hand, may have to use gender-inclusive language e.g. “women, men, girls, boys and/or other sexual and gender identities”, see Appendix for weblink.
- 26 International standards require that the crime of rape is defined in a comprehensive way to cover all relevant criminal conducts. In particular, it should include the penetration, however slight, of any part of the body of the survivor or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. Furthermore, rape should be defined in terms of the perpetrator negating the victim’s ability to give free and un-coerced agreement to sexual contact, through use of force, threat of force, or coercion. An open ended and non-exhaustive list of the various forms and ways in which coercion can be applied should be included in the definition. For the definition of rape under international criminal law see the Rome Statute of the ICC.
- 27 Article 2 of the ICCPR.
- 28 For an overview of international law, see Gloria Gaggioli, “Sexual violence in armed conflicts: A violation of international humanitarian law and human rights law”, in *ICRC Review*, No. 894, 2015, www.icrc.org/en/international-review/article/sexual-violence-armed-conflicts-violation-international-humanitarian
- 29 See Dr Chris Dolan, *Into the Mainstream: Addressing Sexual Violence against Men and Boys in Conflict*, 14 May 2014, <https://reliefweb.int/report/world/mainstream-addressing-sexual-violence-against-men-and-boys-conflict>
- 30 The revised Afghanistan Penal Code was adopted in 2017 and entered into force on 14 February 2018. Article 636 defines rape as: “A person who has sexual intercourse with another person or penetrates body parts or any other object in vagina or anus of the victim using the following means: force, threat, other intimidating means; taking advantage of physical or mental disability of victim, or disability of the victim to express consent, including male or female, or by feeding sedative drugs or other substances that alters state of consciousness shall be deemed perpetrator of rape.” Under article 134 of the Rwanda Penal Code, Law No. 68 of 20 August 2018, rape is defined as: “A person who commits on another person any of the following acts without consent by use of force, threats, trickery or by use of authority over that person or who does so on grounds of vulnerability of the victim, commits an offence: 1° insertion of a sexual organ of a person into a sexual organ, anus or mouth of another person; 2° insertion of any organ of a person or any other object into a sexual organ or anus of another person.”
- 31 See *Prosecutor v. Češić* (IT-95-10/1-S), International Criminal Tribunal for the former Yugoslavia (ICTY) (2007), Sentencing Judgment, 11 March 2007; *Gligor Begović*, Court of BiH, First Instance Verdict, 11 December 2015. For full analysis of the latter see Organization for Security and Co-operation in Europe (OSCE), *Towards Justice for Survivors of Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress before Courts in BiH 2014-2016*, 20 June 2017, www.osce.org/mission-to-bosnia-and-herzegovina/324131
- 32 Turkish Criminal Code, Law No. 5237, 2004, article 28(1) (as update 2014).
- 33 For a detailed discussion of the typology of sexual abuses against men and boys see Sandesh Sivakumaran, “Sexual Violence Against Men in Armed Conflict”, in *The European Journal of International Law*, Vol 18, No. 2, 2007, <http://ejil.org/pdfs/18/2/224.pdf>
- 34 Colombia Criminal Code, 2000, articles 138 to 141.
- 35 The Sexual Offences Bill was adopted by Somalia’s Council of Ministers in May 2018 but had not been approved by the Parliament at the time of writing. For further information and a condensed version of the bill see Legal Action Worldwide (LAW), *Somalia Sexual Offences Bill, 2017*, www.legalactionworldwide.org/somalia-2/sexual-offences-bill/ and LAW, *Somali Sexual Offences Bill: Analysis of the Key Contentious Issues*, November 2018 (copy on file at ASP).
- 36 Turkish Criminal Code, Law No. 5237, 2004, article 102(1) (as updated 2014).
- 37 The UN High Commissioner for Human Rights has unequivocally stated that “States that criminalize consensual homosexual acts are in breach of international human rights law since these laws, by their mere existence, violate the rights to privacy and non-discrimination”. See Report of the Office of the United Nations High Commissioner for Human Rights, Discrimination and violence against individuals based on their sexual orientation and gender identity, UN Doc. A/HRC/29/23 (2015).
- 38 In 1994 the HRC held that a provision of a Tasmanian law criminalizing consensual sex between adult males which “enabled the police to enter the household” where “two consenting adult homosexual men may be committing an offence” violated Article 17 of the ICCPR, *Toonen v. Australia*, Communication No. 488/1992, UN Doc. CCPR/C/50/D/488/1992 (1994). Toonen has subsequently been uniformly followed by UN human rights bodies. For further information including on treaty provisions and their interpretation see OHCHR, *Born Free and Equal - Sexual Orientation and Gender Identity in International Human Rights Law*, 2012, see Appendix for weblink.
- 39 The number of states which criminalise same sex relations as of the start of 2019 was 70, compared to 138 in 1969. For detailed information

on latest trends and developments on the of same-sex relations, see International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA): Lucas Ramon Mendos, *State-Sponsored Homophobia*, 2019, <https://ilga.org/state-sponsored-homophobia-report>

40 ILGA: Lucas Ramon Mendos, *State-Sponsored Homophobia*, 2019.

41 In 2019, 32 states were reported to have laws restricting freedom of expression on sexual orientation and gender identity issues and 41 states had barriers to the formation, establishment or registration of sexual orientation-related NGOs, see ILGA: Lucas Ramon Mendos, *State-Sponsored Homophobia*, 2019. For further discussion of the negative impact of such laws see Report of the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (Independent Expert on SOGI), UN Doc. A/HRC/38/43 (2018).

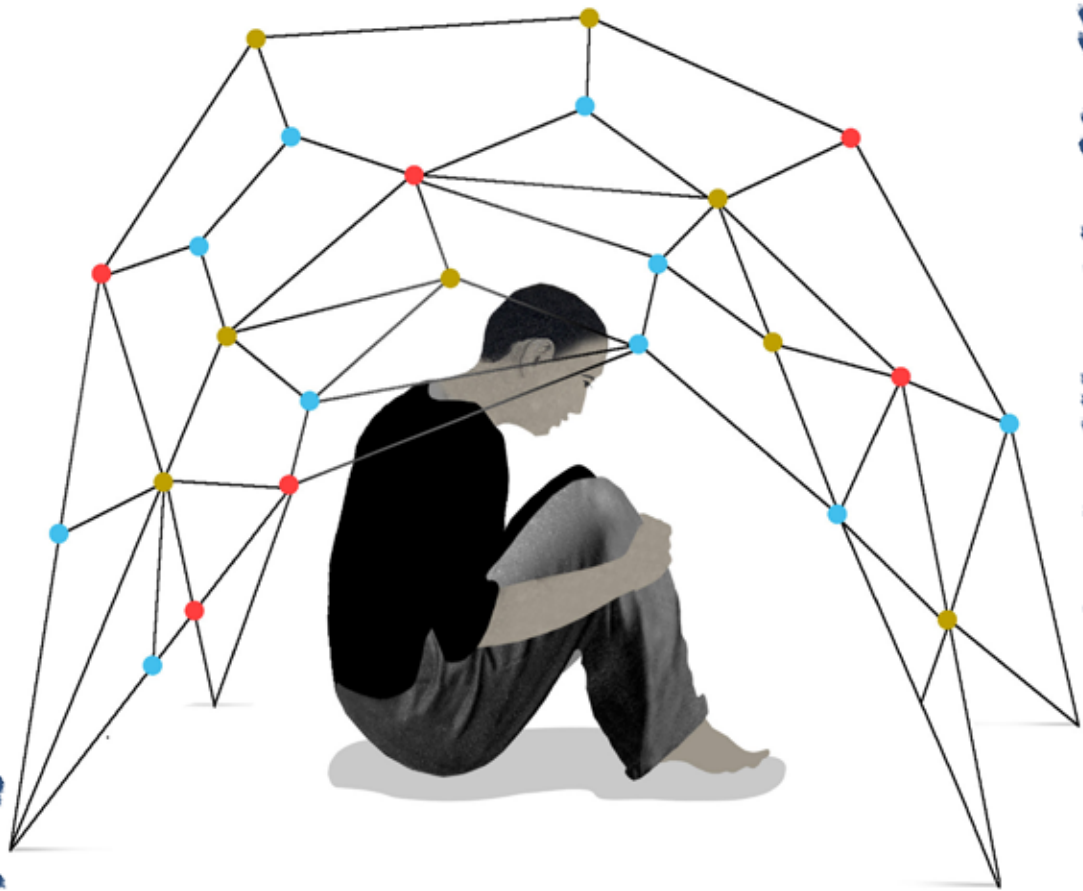
42 Articles 29, 27 and 33 of the Rome Statute of the ICC.

43 For an overview see OHCHR, *Rule-of-law tools for post-conflict states: Amnesties*, 2009, www.ohchr.org/Documents/Publications/Amnesties_en.pdf

44 Burundi Criminal Code, articles 559, 560 and 561.

45 Mali Criminal Code, article 32, and Joint Communiqué between the UN and the Government of Mali, 1 March 2019. Commitments to exclude perpetrators of sexual violence from amnesties are also contained in joint communiqués between the UN and the governments of CAR, Myanmar and South Sudan, available at, www.un.org/sexualviolenceinconflict/digital-library/joint-communicues/

46 Colombia Criminal Code, 2000, article 83.



QUESTION 2: IS CONFLICT-RELATED SEXUAL VIOLENCE AGAINST MEN AND BOYS INTEGRATED INTO DATA COLLECTION, ANALYSIS AND REPORTING PROCESSES?

Reliable information about the nature and scale of conflict-related sexual violence is essential to understanding who is at risk and why. Data on incidents and analysis of patterns and trends is also needed to inform actions to prevent and protect against it, ensure appropriate services and programmatic responses for victims/survivors and to monitor the effectiveness of interventions and fulfil reporting obligations including to human rights treaty monitoring bodies. The deeper understanding of risks and vulnerabilities that comprehensive, quality data brings can also contribute to dispelling myths and stereotypes about sexual violence including when directed at males, and counter stigma and discrimination associated with it.

In practice, conflict-related sexual violence remains chronically under-reported, especially when committed against men and boys. A former Special Representative of the UN Secretary-General on Children and Armed Conflict noted in 2017 that this lack of information, *"reinforces the perception that the scourge of sexual violence in armed conflict is one that affects primarily, if not exclusively, women and girls – which in turn reinforces stigma, inhibits males from disclosing their experiences, and prevents them from asking for and receiving assistance and demanding justice"*.⁴⁷ Although not specifically referring to situations of armed conflict, concerns raised by the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (UN Independent Expert on SOGI) that lack of information on the lived realities of SGM persons means that *"in most contexts policymakers are taking decisions in the dark, left only with personal preconceptions and prejudices or the prejudices of the people around them,"* similarly applies SGM victims/survivors of conflict-related sexual violence.⁴⁸

Human rights treaty bodies have frequently called on states to establish comprehensive data-gathering systems and information management systems on sexual violence and to disaggregate information, including by age, sex, sexual orientation and gender identity, disability, geographic location, ethnic origin and socio-economic background.⁴⁹ They have also recommended that institutional bodies responsible for monitoring, investigation and prosecution of cases of sexual violence be provided with adequate human, technical and financial resources to effectively discharge their mandates.⁵⁰ Specific to situations of armed conflict, the UN Secretary-General has called for more consistent data gathering on sexual violence against men and boys particularly in the context of formal and informal detention settings and their association with armed groups, as well as for monitoring, analysis and reporting on sexual violence against lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals.⁵¹

In situations of armed conflict where state data collection processes may not exist or are weak, international infrastructure exists to support interventions to prevent and respond to conflict-related sexual violence. UN Security Council infrastructure includes the Monitoring, Analysis and Reporting Arrangements (MARA) on Conflict-Related Sexual Violence, and the Monitoring and Reporting Mechanism (MRM) on Grave Violations against Children both of which facilitate the gathering of data and analysis of incidents, patterns and trends of conflict-related sexual violence to inform inter alia early warning systems, programmatic responses and UN Security Council actions including in relation to sanctions.⁵² UN Security Council resolutions have specifically called for the MARA to focus more consistently on the gender specific nature of sexual violence against all affected populations.⁵³

UN human rights monitoring and investigations including those conducted by OHCHR field presences, commissions of inquiry or other UN-mandated fact-finding missions, as well as investigations conducted by UN sanctions monitoring teams⁵⁴ contribute to the collection of evidence on sexual violence for the purpose of accountability. Where established, the Gender-Based Violence Information Management System (GBVIMS), allows UN and other humanitarian actors to safely collect, store, analyse and share reported incidents and data on gender-based violence within which incidents of sexual violence are recorded for the purposes of service provision and protection.⁵⁵

NHRIs and non-governmental stakeholders including NGOs and journalists can also play a critical role in monitoring and bringing to public attention human rights violations including sexual violence. To do so effectively, they must have the capacity and skills to safely and sensitively gather and use information respecting at all times principles of confidentiality, non-discrimination, informed consent, victims'/survivors' rights and agency, and the "do no harm" principle. Their ability to investigate and report on sexual violence, including against men and boys, also requires that they are protected against intimidation, attack or prosecution including by parties to armed conflicts.

Addressing sexual violence against men and boys in data gathering processes

In situations of armed conflict where sexual violence against men and boys has been investigated, it has often been found to be widespread. For example, investigations by OHCHR into human rights violations during the armed conflict in Sri Lanka found that sexual violence was part of a deliberate strategy by state security forces against opponents (real or perceived), and that male detainees were as likely to be subjected to rape and other forms of sexual violence as female detainees.⁵⁶ In the Democratic Republic of the Congo (DRC), the UN has documented hundreds of cases of sexual violence against boys,⁵⁷ and a population-based survey conducted in 2010 found that almost one-quarter (23.6%) of men in specific conflict-affected territories of Eastern DRC had experienced sexual violence.⁵⁸ The Independent International Commission of Inquiry on the Syrian Arab Republic (IICI Syria) has found that torture, including sexual violence, has been used against thousands of people in state detention, including

men and boys, and that rape and other forms of sexual violence against men and boys has also been committed by members of NSAGs.⁵⁹

An absence of information about sexual violence against men and boys in a particular context does not necessarily indicate that there are no incidents. Rather lack of information may be indicative of barriers to reporting. Proactive efforts are therefore required to ensure conditions that allow for the safe, confidential reporting of sexual violence against males, and human rights monitors and investigators should be trained and have competency to safely and sensitively identify and record incidents.

However, sensitivities surrounding the issue of sexual violence create unique challenges for monitoring, data collection and reporting and while all possible efforts should be made to obtain relevant information, the principle of "do no harm" must be prioritised and, where data gathering involves interviewing survivors, appropriate services to which they can be referred for medical attention and other support must be in place.⁶⁰ Specific sensitivities relating to the cultural context and factors including sex, gender and age which must be taken into account.

For SGM persons, discriminatory laws, policies and attitudes can have a particular bearing, and the benefits of data gathering must be balanced with the risks, particularly in countries where same-sex relations are criminalised or where other laws and policies are used to discriminate against or persecute SGMs. Where data on conflict-related sexual violence against SGM persons is collected, the same fundamental principle of "do no harm" that applies to any data-gathering exercise should be adhered to, as well as other principles including of participation, impartiality, transparency, informed consent, self-identification, privacy and confidentiality.⁶¹ In some situations, entities other than law enforcement institutions (which may not be trusted by victims/survivors or which may be responsible for abuses), may be better placed to monitor the incidence of sexual violence including against SGM individuals, for example the NHRIs or credible, trusted NGOs.

- Is data on sexual violence against men and boys gathered as an integral part of monitoring, data collection, analysis and reporting processes and do monitoring/data-gathering strategies address the specific risks associated with documentation of sexual violence against males and other potentially vulnerable persons including SGM persons (such as discriminatory laws, policies and attitudes)?
- Are monitoring and documentation teams adequately staffed with male and female interviewers and interpreters so as to accommodate victim/survivor preference, and is everyone involved in monitoring and/or investigations trained to safely, ethically and sensitively identify and document sexual violence against men and boys and SGM persons?
- Are mechanisms in place to facilitate the safe, private and confidential reporting of sexual violence, and are these mechanisms available to and accessible by all victims/survivors including males and SGM persons?
- Are essential care and support services and active, up-to-date, safe referral pathways in place to enable those involved in monitoring and documenting sexual violence to orientate victims/survivors, including men and boys and SGM persons, to identify and access appropriate medical care, MHPSS and other services? (See also Question 10.)

Ensuring co-ordination and consistency in data gathering, analysis and sharing

Many different state and non-state actors are likely to be involved in monitoring, data gathering and investigation of conflict-related sexual violence. Effective co-ordination among them is therefore necessary to ensure shared analysis and understandings of patterns and trends and thereby to support better informed prevention and protection strategies and response plans.

Guidance on co-ordinating gender-based violence (including sexual violence) prevention and response in emergencies recommends joint needs assessments and analysis among gender-based violence prevention and response actors to develop a common understanding of the underlying causes of vulnerability and risks, and for the development of joint strategies to address root causes. They also emphasise the need for broader co-ordination including with UN peacekeeping operations and other conflict-related sexual violence initiatives.⁶²

Humanitarian standards also include strict ethical standards that must be followed when sharing data on sexual violence in which priority should be given to the safety, security, privacy, confidentiality and informed consent of those providing information, including victims/survivors. Within these constraints, guidelines recommend safe sharing of non-identifiable aggregated data (numbers and statistics) among relevant actors for the purposes of supporting analysis of patterns of sexual violence, and of non-identifiable testimonies of survivors for advocacy purposes.⁶³

MRM guidance documents specifically encourage co-ordination, including with the humanitarian protection cluster, the gender-based violence prevention and response sub-cluster and the health sector for the purpose of sharing information and advocacy on sexual violence and other grave violations against children.⁶⁴ Co-ordinated action has resulted in positive outcomes in situations such as the DRC where training of protection actors on the MRM is reported to have strengthened cooperation between child protection and protection experts and extended the geographical coverage of MRM data collection. This data was used, among other things, to inform national-level protection planning and to support the work of the UN Committee on the Rights of the Child (CRC) in monitoring the national-level implementation of the Convention on the Rights of the Child. The latter is credited with contributing to the signing of a joint action plan in 2012 between the DRC government and the UN to prevent and end sexual violence and the recruitment and use of children by state armed forces.⁶⁵



Have mechanisms been put in place, including where appropriate data sharing protocols, to facilitate co-ordination and to support the safe, confidential data sharing for the purposes of developing and implementing effective prevention and response strategies that are based on a common analysis of risks, patterns and incidence of conflict-related sexual violence, including against men and boys?

Notes

- 47 Office of the Special Representative of the Secretary-General for Children and Armed Conflict (SRSR CAAC), "Hidden Victims: Sexual Violence Against Boys and Men in Conflict," 19 December 2017, <https://childrenandarmedconflict.un.org/hidden-victims-sexual-violence-boys-men-conflict/>
- 48 Report of the UN Independent Expert on SOGI, Data collection and management as a means to create heightened awareness of violence and discrimination based on sexual orientation and gender identity, UN Doc. A/HRC/41/45 (2019).
- 49 See for example CRC, General Comment No.5, General measures of implementation of the Convention on the Rights of the Child (2003); CRC, Concluding observations on periodic report of Vietnam, UN Doc. CRC/C/VNM/CO/3-4 (2012); and CAT, Concluding observations on periodic reports of BiH, UN Doc. CAT/C/BIH/CO/2-5 (2011), Ukraine, UN Doc. CAT/C/UKR/CO/6 (2014), Netherlands, UN Doc. CAT/C/NLD/CO/5-6 (2013), Estonia, UN Doc. CAT/C/EST/CO/5 (2013) and Lithuania, UN Doc. CAT/C/LTU/CO/2 (2009).
- 50 See for example CRC, Concluding observations on periodic report of Ethiopia, CRC/C/ETH/CO/4-5 (2015).
- 51 See Report of the Secretary-General on conflict-related sexual violence, 2019.
- 52 The MARA was established by Security Council resolution 1960 (2010) which requested the UN Secretary-General to establish monitoring, analysis and reporting arrangements to gather data on conflict-related sexual violence, including rape in situations of armed conflict, post-conflict and other situations of concern. The MRM was established by UN Security Council resolution 1612 (2005) to gather information and report on grave violations against children in armed conflict including rape and other forms of sexual violence.
- 53 UN Security Council resolution 2467 (2019).
- 54 Under Chapter VII of the UN Charter, the UN Security Council can impose sanctions on a state, entity or individual to maintain or restore international peace and security. The work of sanction committees, which implement, monitor and provide recommendations to the Council on particular sanctions regimes, is supported by monitoring teams and Groups of Experts.
- 55 The GBVIMS was developed by UN agencies and NGOs to help service providers and co-ordinating agencies achieve best practice in data collection and sharing and to assist humanitarian actors and service providers with the management of information on gender-based violence.
- 56 UN, Report of the OHCHR Investigation on Sri Lanka, UN Doc. A/HRC/30/CRP.2 (2015).
- 57 See Report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo, UN Doc. S/2008/693 (2008).
- 58 K. Johnson et al., "Association of Sexual Violence and Human Rights Violations With Physical and Mental Health in Territories of the Eastern Democratic Republic of the Congo", *JAMA*, Vol 304, No. 5, 2010, <https://jamanetwork.com/journals/jama/fullarticle/186342>
- 59 The IICI Syria was established by Human Rights Council resolution S-17/1 (2011) to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic. IICI Syria reports are available at, www.ohchr.org/en/hrbodies/hrc/iicisyrilapages/independentinternationalcommission.aspx
- 60 Respect of the "Do No Harm" principle requires an assessment of gender dynamics and cultural norms that may result in victims and witnesses being exposed to further harm, including re-traumatisation or stigma, violence and marginalisation at the hands of alleged perpetrators or the victims' families and communities. For detailed guidance see OHCHR, *Integrating a Gender Perspective into Human Rights Investigations*, 2018 and World Health Organization (WHO), *Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies*, 2007. See Appendix for weblinks.
- 61 See for example OHCHR, *A Human Rights-Based Approach to Data: Leaving No One Behind in the 2030 Agenda for Sustainable Development*, 2018; UN Independent Expert on SOGI, Data collection and management as a means to create heightened awareness of violence and discrimination based on sexual orientation and gender identity, UN Doc. A/HRC/41/45 (2019); and WHO, *Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies*, 2007. Links to these and other sources of guidance on data collection can be found in the Appendix.
- 62 Gender-Based Violence Area of Responsibility (AoR), *Handbook for Coordinating Gender-based Violence Interventions in Emergencies*, 2019. See Appendix for weblink.
- 63 See for example Inter-Agency Standing Committee (IASC) *Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, 2007, and ICRC, *Professional Standards or Protection Work Carried Out By Humanitarian And Human Rights Actors In Armed Conflict And Other Situations Of Violence, Third Edition*, 2018. See Appendix for weblinks.
- 64 See MRM Guidelines, MRM Field Manual and MRM Training Toolkit, available at www.mrmtools.org/mrm/
- 65 Clusters are groups of humanitarian organisations, both UN and non-UN, in each of the main sectors of humanitarian action. They are designated by the IASC and are responsible for co-ordination in emergencies. For further information see www.humanitarianresponse.info/clusters
- 65 See Department of Peacekeeping Operations (DPKO), OSRSG CAAC and UNICEF, *Global Good Practices Study, Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict*, November 2013, www.mrmtools.org/mrm/files/MRM_Good_Practice_Study_-_27_Nov_2013.pdf



QUESTION 3: DO NATIONAL ACTION PLANS AND STRATEGIES RECOGNISE CONFLICT-RELATED SEXUAL VIOLENCE AGAINST MEN AND BOYS AND INCLUDE MEASURES TO PREVENT AND RESPOND TO IT?

The desirability of drawing up national action plans to strengthen the promotion and protection of human rights in general and to address specific issues including sexual violence is recognised in international standards and jurisprudence. The 1993 Vienna Declaration and Programme of Action called on states to develop national action plans as a means of achieving a comprehensive structured multi-sectoral approach to human rights planning and implementation that would help ensure political will, coordinate the involvement of relevant parts of the state apparatus and other non-state stakeholders, and harness necessary financial and other resources needed to achieve positive outcomes.⁶⁶

UN treaty bodies and mechanisms have recommended that states develop and implement national action plans to address sexual violence including in situations of armed conflict, and in some cases have explicitly called for such plans to address sexual violence against men and boys.⁶⁷ The UN has also called on national governments to integrate actions to investigate and prosecute violence on the basis of sexual orientation and gender identity into national human rights action plans.⁶⁸

In practice, the development of action plans and other national strategies aimed at combating sexual violence is most often driven by the need to strengthen protection for women and girls, or in some cases “women and children”.⁶⁹ Where national action plans reference men and boys they often do so in terms of engaging them to advance gender equality and to end gender-based violence. Fundamental as this is, plans and strategies that do not recognise men and boys, or other categories such as SGM persons as potential victims, do not capture the whole picture. Moreover, portraying men and boys only as potential perpetrators in public policies and strategies without acknowledging that they may also be victims/survivors can contribute to reinforcing gender stereotypes and exacerbate the silence, stigma and shame associated with sexual violence against males.

Involving men and boys in the development of national action plans

National action plans are both a process and an outcome and the manner in which they are developed will influence their chances of success. An inclusive process of data gathering, consultation and analysis involving civil society and affected persons including victims/survivors and communities is important for identifying issues of concern and appropriate responses to them.

In addition to outreach to and inclusion of women and girls, specific initiatives are needed to engage relevant representatives, communities and experts on sexual violence against men and boys and SGM persons to support data gathering and analysis. Consultations should also be designed in such a way as to encourage the direct, safe and confidential participation of male and SGM victims/survivors in order that plans are also informed by their experiences, which may differ from those of female victims/survivors.



Is conflict-related sexual violence against men and boys addressed in processes to develop, implement and monitor relevant national action plans, including through meaningful consultations with male victims/survivors, as well as with NGOs and other relevant civil society actors involved in preventing and responding to sexual violence against them?

Integrating measures to prevent and address sexual violence against men and boys in national action plans and strategies

Sexual violence may be addressed in one or more different national action plans, for example human rights action plans, national action plans on sexual violence and/or gender-based violence, on the protection of children, on torture, and/or on women, peace and security. Where sexual violence is addressed, gender-inclusive definitions should be used and, although women and girls are generally recognised as being most affected there should be acknowledgment that men and boys may also be victims/survivors. The UK’s 2018–2022 National Action Plan on Women, Peace and Security, for example, does this by explaining that women and girls are the primary focus of the plan because systemic gender inequality disadvantages them; however, it also stresses the need to work with men and boys both as advocates of gender equality and as possible victims/survivors. The plan highlights the particular vulnerability of men and boys to sexual

violence in detention and within armed groups, and also stresses the vulnerability of SGM persons to discrimination and gender-based violence.⁷⁰

Measures contained in national action plans to prevent and respond to sexual violence will differ according to the context and should be derived from a thorough analysis of patterns, vulnerabilities and risks including on the basis of sex and gender. The majority of the national action plans in conflict-affected states reviewed for the preparation of this checklist contained no measures explicitly aimed at preventing, protecting against and responding to sexual violence against men and boys. One of the few exceptions found was Sri Lanka's 2017–2021 National Action Plan for the Protection and Promotion of Human Rights. This action plan includes commitments to revise the legal definition of torture to include sexual violence, and to conduct "a credible domestic inquiry against perpetrators when sexual violence and torture is used on women and men held in detention".⁷¹

Elsewhere, action plans do not include specific reference to men and boys but include measures that could provide scope for addressing their needs. Jordan, for example, has taken the important step of including specific measures in its 2018–2021 National Action Plan for the Implementation of UN Security Council resolution 1325 on Women, Peace and Security to protect and respond to the needs of sexual violence survivors among refugee populations present in the country, including by improving and scaling-up legal aid and providing health care for survivors of sexual violence suffered in the context of the armed conflict in Syria.⁷² ASP is not aware of the extent to which this has translated in practice into support for male victims/survivors.⁷³

- Do relevant national action plans explicitly recognise men and boys as possible victims/survivors of sexual violence?
- Are measures to prevent and respond to sexual violence against men and boys integrated into relevant national action plans, and do such plans address factors that create specific vulnerabilities/risks of conflict-related sexual violence to males, including on the basis of age and sexual orientation and gender identity?

Signalling political commitment to combating sexual violence against men and boys

Strategies and plans need to be reinforced by high-level political commitment. Visible support by senior leaders for combating sexual violence is important for mobilising bureaucratic action and resources and for sending the message that such conduct will not be tolerated.

Governments can signal commitment to ending sexual violence by signing up to international declarations or other non-binding policy instruments such as the Declaration of Commitment to End Sexual Violence in Conflict which explicitly recognises that men and boys are victims of conflict-related sexual violence and contains a set of commitments to end the use of rape and sexual violence in war through practical actions at national and international levels.⁷⁴

Such commitments also need to be translated to concrete measures at a national level. To this end, the designation of high-level civilian, military and police focal points, with responsibility for the practical implementation of commitments to prevent sexual violence, is encouraged by the UN Security Council.⁷⁵ Focal points can play a pivotal role in co-ordinating the development and implementation of commitments, national action plans and other strategies to combat sexual violence and should be mandated to include a focus on sexual violence committed against males in their work.

Commitments can also be reinforced through public statements by political leaders condemning sexual violence which, by including explicit reference to sexual violence directed at males, its causes and consequences, can help to broaden public understanding of the issue, promote zero tolerance and reduce stigma and shame for victims/survivors.

- Has the government endorsed the Declaration of Commitment to End Sexual Violence in Conflict and other relevant international or regional commitments to end conflict-related sexual violence?
- Has the state appointed a high-level focal point responsible for leading and co-ordinating national-level efforts to combat conflict-related sexual violence and do their mandates include addressing sexual violence against men and boys?



Have senior political leaders publicly expressed zero tolerance of sexual violence against all persons including men and boys?

Notes

- 66 The Vienna Declaration was adopted by the World Conference on Human Rights on 25 June 1993.
- 67 For example the CRC's Concluding observations on the third to fifth periodic reports of the DRC recommend the development of "*a national action plan to combat sexual violence and abuse of children both by civilians and in the context of the armed conflict, to ensure that the relevant legislation and national strategy are fully implemented*", UN Doc. CRC/COD/CO/3-5 (2017). Universal Periodic Review (UPR) recommendations to St Kitts and Nevis include "*that the Department of Gender Affairs ensure that its programmes to combat domestic and sexual violence include measures that target violence perpetrated against men and boys*", UN Doc. A/HRC/31/16 (2015).
- 68 UN, *Living Free and Equal*, 2016.
- 69 The adoption of action plans by states to combat violence against women has been widely recommend by treaty bodies including the CEDAW and CAT. It is also called for in policy instruments such as the 1995 Beijing Platform for Action and in various UN General Assembly and Security Council resolutions.
- 70 UK, National Action Plan on Women, Peace and Security 2018-2022, www.gov.uk/government/publications/uk-national-action-plan-on-women-peace-and-security-2018-to-2022
- 71 Sri Lanka, National Action Plan for the Protection and Promotion of Human Rights 2017-2021, www.mfa.gov.lk/ta/6587-the-national-action-plan-for-the-protection-and-promotion-of-human-rights-2017-2021/
- 72 Jordan, National Action Plan for the Implementation of UN Security Council resolution 1325 on Women, Peace and Security 2018-2021, <http://jordan.unwomen.org/en/digital-library/publications/2017/12/jordanian-national-action-plan>. For further details of services, including case management support for survivors of sexual violence, see also Jordan's Response Plan to the Crisis in Syria, 2019, <http://www.jrpdc.org/>
- 73 See ASP, "*Destroyed from within*": *Sexual violence against men and boys in Syria and Turkey*, 6 September 2018 (hereinafter ASP, "*Destroyed from within*", 2018).
- 74 The Declaration was launched in 2013 and has since been endorsed by over 150 states. Text available at www.gov.uk/government/publications/a-declaration-of-commitment-to-end-sexual-violence-in-conflict
- 75 UN Security Council resolution 2467 (2019).



QUESTION 4: IS CONFLICT-RELATED SEXUAL VIOLENCE AGAINST MEN AND BOYS ADDRESSED IN TRAINING AND INFORMATION AND COMMUNICATION INITIATIVES?

In order for legal and policy protections and deterrents against conflict-related sexual violence to be effective, they must be disseminated to all those responsible for implementing them and communicated to the general public. As part of their obligations to implement international human rights and humanitarian treaties, states should also provide in-depth, ongoing training to relevant officials and adopt educative measures.⁷⁶ (See Question 6 for training in relation to NSAGs).

UN treaty bodies and special procedures have recommended mandatory training on preventing and responding to sexual violence including for law enforcement officials, judges, prosecutors, lawyers, forensic investigators, prison officials, health service personnel and social workers.⁷⁷ UN Security Council resolutions also call on states to provide training in sexual and gender-based violence to security sector and justice personnel and to other relevant officials.⁷⁸

Specifically on children, the CRC has emphasised the obligation to provide initial and in-service general and role-specific training to protect children from all forms of violence, including sexual abuse, for all professionals and non-professionals working with, and for, children.⁷⁹ UN Security Council and General Assembly resolutions on children and armed conflict and on child protection likewise call for training on the rights of the child for those who work with and for children. Among other recommendations, they have also called for the inclusion of child protection as an integral part of military training.⁸⁰

Governments that have endorsed the Declaration of Commitment to End Sexual Violence in Conflict have committed to ensure that national military and police rules and procedures and training is in accordance with international law so as to enable more effective prevention and response to sexual violence in conflict. Some governments have also committed to conduct training and strengthen the capacity of justice and security sectors in bilateral agreements with the UN (see also Question 5).⁸¹

Integrating sexual violence against men and boys into training

Lack of awareness of and specialist expertise on preventing and responding to conflict-related sexual violence against men and boys means that they are likely to be overlooked in policies, plans and practical measures aimed at preventing such violence, and may also be excluded from programmes designed to respond to it.

Dedicated, ongoing training that is tailored to specific sectors and their practical work needs should be routine for all relevant state officials and employees as well as non-state stakeholders. An analysis of training needs and gaps can help to identify what training is needed and where national or international resources and expertise exists to provide it. For example, in response to finding insufficient emphasis and research on investigating and documenting conflict-related sexual violence against men and boys globally and a lack of comprehensive training resources, the Institute for International Criminal Investigations (IICI) has developed guidelines and carried out specialist trainings to assist international criminal investigators and prosecutors, national police officers, UN human rights officers and local human rights reporters and other professionals to monitor, document and investigate sexual and gender-based violence against men and boys.⁸²

Training on preventing and responding to sexual violence against men and boys should be embedded in relevant professional education and training curricula so that it becomes integral to understanding sexual violence, including among the police, the military, the judiciary, human rights institutions and organisations, medical and mental health professionals, humanitarian workers, those involved in refugee and asylum-seeking processes and for other relevant professionals (see also Questions 7, 8 and 10). Training should be designed to address and build understanding of the links and differences in risks and vulnerabilities including on the basis of age and sexual orientation and gender identity and of the needs of all victims/survivors including men and boys. In addition to providing technical and other necessary skills, training should address attitudes and assumptions around gender norms and stereotypes that can result in discriminatory treatment, including of male and SGM victims/survivors.



Have national legal frameworks on sexual violence and policies to combat it been disseminated to all state/public officials and among all other relevant state and non-state actors?

Is in-depth, ongoing, gender-inclusive training on preventing and responding to sexual violence provided to all relevant state officials, rule of law personnel, security forces, the judiciary and other state institutions with responsibilities for promoting and protecting human rights? Does the training include detailed modules on preventing and responding to sexual violence against men and boys and on gender-sensitive approaches to preventing and addressing sexual violence related to sexual orientation and gender identity?

Is preventing and responding to sexual violence against men and boys integrated into education/training curricula and ongoing professional training for law, health, social services and other relevant professional sectors?

Addressing sexual violence against men and boys in human rights information/communication initiatives

Effective implementation of law and policies also requires broader public awareness of their existence and of the roles and responsibilities of private individuals in helping to prevent and respond appropriately to sexual violence. Carefully designed, accurate and sensitively delivered public communications that incorporate information about prohibitions of sexual violence against men and boys and about the services available to male and female victims/survivors into broader messaging can help to combat misinformation, myths and stereotypes and can contribute to building a more protective environment in which victims/survivors are able and willing to seek assistance.

Official/state awareness-raising and communication initiatives can be reinforced by the involvement of community and religious leaders. For example, on the occasion of the International Day for the Elimination of Sexual Violence in Conflict on 19 June 2019, the South Sudan Council of Churches issued a statement denouncing stigmatisation of survivors of conflict-related sexual violence and urging political and military leaders to abide by commitments to prevent sexual violence. The statement, which includes calls for strengthened support for survivors, explicitly recognises that men and boys are victims of sexual violence in the context of the ongoing armed conflict in South Sudan.⁸³

The involvement of victims/survivors in awareness-raising activities, as well as in delivering training and advocacy, can also be empowering and help others who have lived through a similar experience. For example, in Uganda, collective action by male survivors of conflict-related sexual violence has been found to help develop resilience and mutual support.⁸⁴ The participation of male victims in such initiatives is also reported to help to break the taboos around sexual violence against men and boys.⁸⁵

Have gender-inclusive information/communication strategies and campaigns been developed and implemented to ensure that prohibitions on sexual violence against all persons are widely known; that affected populations including men and boys are informed of their right to be protected from sexual violence; and, in the event that they are affected by sexual violence, they know how to safely and confidentially report and to access medical and other support?

Notes

- 76 See for example Article 10 of the Convention against Torture; Article 4 of the Convention on the Rights of the Child; Articles 23 and 30(e) of the Convention on the Elimination of All Forms of Discrimination against Women; and Article 7 of ICERD.
- 77 See for example HRC, General Comments No. 20, Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, Article 7 (1992) and No.31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant (2004); HRC, Concluding observations on periodic reports of South Africa, UN Doc. CCPR/C/ZAF/CO/1 (2016) and Japan, UN Doc. CCPR/C/JPN/CO/5 (2008); CEDAW, General Recommendations No. 30 on women in conflict prevention, conflict and post-conflict situations (2013) and No. 35 on gender-based violence against women, updating general recommendation No. 19 (2017); Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Mission to Burundi (8–16 December 2014), UN Doc. A/HRC/30/42/Add.1 (2015). See also ICRC, *The Domestic Implementation of International Humanitarian Law: A Manual*, September 2015, see Appendix for weblink.
- 78 UN Security Council resolutions 2331 (2016) and 2106 (2013). The former specifically addresses the training of relevant officials such as law enforcement personnel, border control officers, labour inspectors, consular or embassy officials, judges and prosecutors and peacekeepers to identify indicators of trafficking in persons in areas affected by armed conflict in supply chains, as part of broader efforts to tackle the trafficking of persons in armed conflict and associated sexual violence.
- 79 CRC, General Comment No. 13, The right of the child to freedom from all forms of violence (2013).

- 80 See for example UN Security Council resolutions 2427 (2018), 2225 (2015) and 2143 (2014) and UN General Assembly resolutions 70/137 (2015) and 68/147 (2014).
- 81 Such commitments have been made in joint communiqués to prevent and respond to sexual violence in conflict and in action plans to prevent and end grave violations against children in armed conflict signed by governments and the UN.
- 82 IICI, *Guidelines for Investigating Conflict-Related Sexual and Gender-Based Violence against Men and Boys*. These complement the *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict* which was developed as part of the UK Governments' PSVI. See Appendix for weblinks.
- 83 "Statement of South Sudan Council of Churches denouncing stigmatisation of survivors of conflict-related sexual violence in South Sudan, 19 June 2019", www.un.org/sexualviolenceinconflict/statement-of-south-sudan-council-of-churches-sscc-denouncing-stigmatization-of-survivors-of-conflict-related-sexual-violence-in-south-sudan/
- 84 See Jerker Edström et al, *Therapeutic Activism: Men of Hope Refugee Association Uganda Breaking the Silence over Male Rape in Conflict-related Sexual Violence*, IDS Evidence Report 182, 2016, (hereinafter, Edström et al, *Therapeutic Activism*, 2016), www.ids.ac.uk/publications/therapeutic-activism-men-of-hope-refugee-association-uganda-breaking-the-silence-over-male-rape-in-conflict-related-sexual-violence/
- 85 See for example OHCHR, *Protection of victims of sexual violence: Lessons learned. Workshop report*, 2019, see Appendix for weblink, and Edström et al, *Therapeutic Activism*, 2016.



QUESTION 5: DO INTERNAL POLICIES AND REGULATIONS OF THE MILITARY AND POLICE PROHIBIT AND SANCTION SEXUAL VIOLENCE AGAINST MEN AND BOYS?

Sexual violence against men and boys committed by members of state security forces has been documented in a significant number of conflict-affected or post-conflict countries. These include Afghanistan, BiH, Burundi, Colombia, DRC, El Salvador, Guatemala, Indonesia (Timor-Leste),⁸⁶ Iraq/Iraqi Kurdistan, Israel, Libya, Myanmar, Peru, Russian Federation/Chechnya, Rwanda, Somalia, South Sudan, Sri Lanka, Sudan (Darfur), Syria, Uganda, Ukraine and Yemen.⁸⁷ Men and boys fleeing armed conflict have also been subjected to sexual violence by elements of state security forces including border guards and detention officials in transit countries such as Libya and Turkey. (see also Question 7).⁸⁸ Incidents of conflict-related sexual violence against men and boys involving international forces engaged in military operations abroad have also been documented in countries including Iraq and Yemen.⁸⁹ In the past, boys have also been among the victims of sexual violence committed by peacekeepers in CAR, Haiti and Sierra Leone.⁹⁰

Sexual violence by members of state security forces can result from inadequate training, lax policies and rules, lack of discipline, ineffective command and/or poor control and oversight. These must be addressed through strengthened internal policies and procedures, regular training on IHL, IHRL and on national laws prohibiting and preventing sexual violence, effective monitoring and oversight and consistent enforcement of accountability. In contexts where sexual violence is the product of deliberate strategies, more fundamental organisational transformation may be required including vetting to remove all personnel against whom there are credible allegations of sexual violence. Where individuals are reasonably suspected of having committed, ordered or condoned sexual violence, they must be prosecuted in accordance with international fair trial standards (see also Question 8).

Prohibiting and sanctioning sexual violence against men and boys in internal conduct and oversight frameworks of security forces

State security forces are bound by treaty obligations that prohibit rape and other forms of sexual violence. Successive UN Security Council resolutions have highlighted the minimum measures required of state security forces and other parties to armed conflict to combat sexual violence. These include issuing clear orders through chains of command; prohibiting sexual violence in codes of conduct, military and police field manuals or the equivalent; training troops/personnel; investigating allegations; and ensuring the accountability of perpetrators.⁹¹ Orders, directives, manuals and other similar measures should use gender-inclusive language that clearly prohibits sexual violence against all persons including men and boys, which should also be addressed in ongoing training.

Effective internal and external oversight mechanisms are required to ensure compliance with laws and policies and to uphold standards of conduct. Arrangements for oversight vary, but should include internal mechanisms for receiving, investigating and resolving complaints either from the public or from security forces personnel. They should also include external oversight by relevant civilian authorities including ministers and parliament as well as by bodies or institutions that are independent of government and security forces, such as Ombudspersons or NHRIs that are established and functioning in accordance with the Principles relating to the Status of National Institutions.⁹²

All those involved in internal or external oversight should receive training on combating sexual violence. Monitoring and oversight bodies or institutions should have the capacity and skills to safely, sensitively and confidentially investigate allegations, to protect complainants, and refer victims/survivors to health care and other necessary support. They should also have the power to impose sanctions and/or to refer individuals suspected of crimes to competent, independent prosecutorial authorities.

The adoption of a Policy for Protection of Children in Armed Conflict by Afghanistan's Ministry of Defence in 2017 represents an example of the types of measures that can be put in place to strengthen enforcement of international treaty obligations relating to sexual violence. The policy prohibits all grave violations against children by members of the Afghan National Army (ANA), including rape, attempted rape and sexual violence. It also requires ANA educational institutes to develop and deliver training to its members and includes procedures for monitoring and investigating allegations as well modalities for co-operation with the Afghan National Human Rights Commission and child protection experts.⁹³ Although the policy does not explicitly reference boys as potential victims/survivors of sexual violence, which would be preferable, it uses the term "children" and as such is inclusive of boys.

- Do military and police codes of conduct, field manuals, regulations and other policies categorically prohibit and sanction sexual violence against all persons including men and boys?
- Do members of the security forces receive in-depth, ongoing training on IHRL, IHL and national laws, as well as policies and standards of conduct relating to sexual violence, and does training include detailed modules on preventing and responding to sexual violence against men and boys?
- Are effective, gender sensitive, internal oversight mechanisms in place to monitor and investigate misconduct by members of security forces including alleged incidents of sexual violence, and can members of the security forces and members of the public safely and confidentially report incidents to these mechanisms?
- Are state security forces subject to independent external monitoring and oversight including by Ombudspersons and/or NHRIs, and do these institutions have the legal powers, capacity and skills to receive complaints and investigate allegations of sexual violence committed against all persons including men and boys?

Engaging with the UN to prevent and end conflict-related sexual violence by state security forces

In accordance with UN Security Council resolution 1882 (2009) on children and armed conflict and resolution 1960 (2010) on women, peace and security, a list of parties to armed conflict responsible for committing acts of sexual violence in situations of armed conflict is published annually in the UN Secretary-General's reports on conflict-related sexual violence and on children and armed conflict.⁹⁴ This "naming and shaming" is a powerful tool that not only shines a spotlight on the conduct of state security forces as well as NSAGs (for the latter, see Question 6) and can also result in tangible consequences such as sanctions and barring from participation in peacekeeping operations.

Listing also triggers requirements by named parties to engage with the UN to agree specific time-bound action plans or commitments to prevent sexual violence. Under-reporting of sexual violence against men and boys means that listing is most often triggered by patterns of abuse against women and girls verified via UN monitoring processes (MARA and/or MRM). Nevertheless, the process of engagement to obtain commitments and to agree and implement measures to prevent sexual violence provides important opportunities to address sexual violence against men and boys.

To date, joint communiqués to prevent and respond to conflict-related sexual violence have been signed between the UN and governments in CAR, DRC, Iraq, Mali, Myanmar, Somalia and South Sudan. Under these communiqués, commitments to various actions have been made such as legislative and policy reform, training and capacity building of justice and security sectors; holding perpetrators of sexual violence to account; and providing reparations and access to medical and other assistance for victims/survivors.⁹⁵ In some cases, for example in DRC, Iraq, Somalia and South Sudan, these have formed the basis of more detailed national action plans and strategies to combat conflict-related sexual violence and have resulted in concrete measures to tackle the problem. Joint communiqués do not generally reference men and boys explicitly but rather use language such as "victims" or "survivors", which should be understood as including them.⁹⁶

In Afghanistan, although national security forces were not listed by the UN Secretary-General for having perpetrated sexual violence against children, an action plan signed in 2011 between the UN and the ANA and Afghan National Police on preventing the military recruitment and use of children included an annex incorporating measures to prevent rape and other forms of sexual violence against girls and boys.⁹⁷ This annex has been the foundation for other measures including prohibitions against and measures to address sexual violence against children contained in the ANA child protection policy noted above. In the DRC, an action plan to prevent and end rape and other forms of sexual violence against children by the Armed Forces of the Democratic Republic of the Congo is currently being implemented and, in South Sudan, the Sudan People's Liberation Army has also committed to prevent and end sexual violence against children in action plans signed with the UN.⁹⁸ In the latter, a new plan that was under negotiation at the time of writing is reported to include a sub-chapter on sexual violence and measures to prevent it.⁹⁹

- Are states which are affected by conflict-related sexual violence actively engaging with the UN to identify and agree actions (including in the form of joint communiqués on sexual violence in conflict and/or action plans to prevent and end grave violations against children) and co-operating with UN and other experts to implement the commitments contained in them?
- Do agreed communiqués and/or action plans recognise that men and boys may also be victims, and contain measures to prevent and respond to their specific risks, vulnerabilities and needs?
- Does monitoring and reporting on the implementation of joint communiqués and action plans assess measures taken and progress towards preventing conflict-related sexual violence against men and boys?

Preventing sexual violence by national security forces participating in peacekeeping and other international military operations

International human rights standards apply to military and police when serving abroad including in peacekeeping operations or as part of other international deployments, and IHL applies when a peacekeeping force is classified as having become a party to a conflict.¹⁰⁰ Peacekeepers and international forces are further bound by policies and regulations of the UN or other mandating bodies. The UN has adopted a "zero tolerance policy" of sexual exploitation and abuse (a term that includes rape and sexual violence as well as all forms of sexual contact with girls and boys under the age of 18 years) by peacekeepers and has established processes to enforce and monitor its implementation.¹⁰¹ Zero tolerance policies have likewise been adopted by the African Union (AU), the European Union (EU) and the North Atlantic Treaty Organisation (NATO).¹⁰²

Much of the responsibility for the successful implementation of these policies rests with the countries contributing troops and police, which must ensure good conduct, discipline and accountability of uniformed personnel deployed by them.¹⁰³ Many states have acknowledged their responsibilities by signing up to political commitments. For example, more than 100 UN member states have signed the UN's Voluntary Compact on Preventing and Addressing Sexual Exploitation and Abuse,¹⁰⁴ and more than 150 states have endorsed the Declaration of Shared Commitments on United Nations Peacekeeping Operations which also contains pledges to strengthen the conduct of personnel involved in peacekeeping operations.¹⁰⁵ Under these commitments and other UN policies, actions required of states include pre-deployment screening and certification that uniformed personnel have not, or are not alleged to have, committed criminal offences or violations of IHRL or IHL, including sexual violence.¹⁰⁶

States are also responsible for delivering pre-deployment training which should cover, among other things, sexual exploitation and abuse, human rights, conflict-related sexual violence and child protection.¹⁰⁷

Because UN troop and police contributing countries retain exclusive jurisdiction over members of national contingents, they are also responsible for ensuring timely, effective, independent and impartial investigations into allegations of misconduct by members of them. In order to ensure accountability, it is therefore essential that rape and other sexual offences are codified in national law and that such laws apply extra-territorially.¹⁰⁸ As in any justice process, victims should be at the heart of investigations and prosecutions should be affirming of victims' inherent dignity and personhood. Investigations and prosecutions must also be gender and age sensitive and the right of victims/survivors to participate in legal proceedings should be respected (see also Question 8).

In practice, a significant gap remains between commitments and the consistent, effective action needed across all troop and police contributing countries to ensure the compliance. The record of states in holding perpetrators to account for sexual violence offences in the context of peacekeeping operations also remains inadequate and to ASP's knowledge no case involving sexual violence against men or boys committed by a peacekeeper has been prosecuted to date. Nevertheless, several states have expeditiously investigated and prosecuted cases of sexual violence against women and girls in domestic courts, or in some instances by operating on-site courts martial during peacekeeping operations, which can facilitate greater visibility of proceedings and participation of victims.¹⁰⁹

- Has the government signed the UN's Voluntary Compact on preventing and addressing sexual exploitation and the Declaration of Shared Commitments on United Nations Peacekeeping Operations?
- Are effective screening processes in place to ensure that troops or police are not deployed as part of peacekeeping or other international operations if they have, or are credibly alleged to have, committed acts of sexual violence against any person including against men and boys?
- Do uniformed personnel receive in-depth pre-deployment training on preventing and responding to sexual violence and does training include modules on preventing and responding to sexual violence against men and boys?
- Do national legal and procedural frameworks allow the extra-territorial investigation and prosecution of sexual violence offences, including by members of the military or police serving in peacekeeping or other international operations?

Notes

- 86 With reference to incidents documented during Indonesia's occupation of Timor-Leste from 1977 to 1999.
- 87 For sources of information on conflict-related sexual violence against men and boys in each of these countries see relevant footnotes in Questions 6 and 7.
- 88 See for example Women's Refugee Commission (WRC), "*More Than One Million Pains*": *Sexual Violence Against Men and Boys on the Central Mediterranean Route to Italy*, 25 March 2019 (hereinafter WRC, "*More Than One Million Pains*", 2019), www.womensrefugeecommission.org/component/zdocs/document?id=1698-libya-italy-report-03-2019; Amnesty International, *Turkey: Struggling to survive: Refugees from Syria in Turkey*, November 2014, https://www.amnestyusa.org/files/eur_440172014.pdf; and ASP, "*Destroyed from within*", 2018.
- 89 For example United Arab Emirates (UAE) personnel in Yemen, see OHCHR, *Situation of human rights in Yemen*, including violations and abuses since September 2014, UN Doc. A/HRC/39/43 (2018); and US forces in Iraq, see Taguba Report: AR 15-6 Investigation of the 800th Military Police Brigade, 2004, www.thetorturedatabase.org/document/ar-15-6-investigation-800th-military-police-investigating-officer-mg-antonio-taguba-taguba.
- 90 Note by the UN Secretary General, *Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa*, UN.Doc. A/57/465 (2002); Associated Press, "UN child sex ring left victims but no arrests", 12 April 2017, <https://apnews.com/e6ebc331460345c5abd4f5d77f535c1>; UN, *Report of an independent review on sexual exploitation and abuse by international peacekeeping forces in the Central African Republic: "Taking action on sexual exploitation and abuse by peacekeepers"*, UN Doc. A/71/99 (2016). Although the vast majority of documented incidents of sexual exploitation and abuse by peacekeepers (which can include acts of sexual violence) involve women and girls, incidents involving boys continue to be reported. See for example UN News, "UN receives 70 new allegations of sexual exploitation and abuse in three months", 30 July 2018, <https://news.un.org/en/story/2018/07/1015912>
- 91 See for example UN Security Council resolutions, 1820 (2008), 1888 (2009), 1960 (2010) and 2106 (2013).
- 92 The Principles relating to the Status of National Institutions were adopted by the UN General Assembly in 1993, www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx
- 93 The Islamic People's Republic of Afghanistan, Ministry of Defence, *Policy for Protection of Children in Armed Conflict*, 2017, copy of file with ASP. Despite the policy, recent research in Afghanistan by ASP shows that incidents of conflict-related sexual violence against both boys and girls by the ANA continue to occur, report forthcoming.
- 94 The system of "listing" was first introduced by UN Security Council resolution 1379 (2001) which called upon the UN Secretary-General to attach an annex to his report on children and armed conflict, listing parties to conflict who recruit and use children in situations on the Security Council's agenda or in other situations which may threaten the maintenance of international peace and security in accordance with Article 99 of the UN Charter. The triggers for listing were subsequently expanded to include: patterns of killing and maiming children and sexual violence against children; recurrent attacks or threats of attacks on schools and hospitals, and on protected persons in relation to schools and hospitals; and the abduction of children.
- 95 For full texts of communiqués see, www.un.org/sexualviolenceinconflict/digital-library/joint-communicues/
- 96 A joint communiqué between the Government of CAR and the UN is an exception in that it recognises the specific protection and service needs of "women, girls, men and boy survivors". Elsewhere, the communiqué commits to fighting conflict-related sexual violence particularly against "women and children" but does not reference men. See Joint Communiqué on prevention and response to conflict-related sexual violence between the Central African Republic and the UN, 31 May 2019, www.un.org/sexualviolenceinconflict/digital-library/joint-communicues/
- 97 The annex also included actions to prevent the killing and maiming of children. See DPKO, OSRSG CAAC and UNICEF, *Global Good Practices Study: Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict*, November 2013.
- 98 See OSRSG CAAC, *Action Plans*, <https://childrenandarmedconflict.un.org/tools-for-action/action-plans/>
- 99 ASP communication with OSRSG CAAC, 10 September 2019.
- 100 See Katarina Grenfell, "Perspective on the applicability and application of international humanitarian law: the UN context", *International Review of the Red Cross*, 2013, Vol 95, No. 891/892.
- 101 The UN's policy is set out in the Secretary-General's Bulletin, *Special measures for protection from sexual exploitation and sexual abuse*, UN Doc. ST/SGB/2003/13 (2003), and has been elaborated in subsequent reports, see www.un.org/preventing-sexual-exploitation-and-abuse/content/documents
- 102 The African Union Policy on Prevention and Response to Sexual Exploitation and Abuse for Peace Support Operations was adopted by the AU Peace and Security Council on 29 November 2018. For further details on this and the AU Compliance Framework, see Joint Declaration of the Chairperson of the AU Commission and the Secretary-General of the United Nations, 6 December 2018, www.un.org/sg/en/content/sg/note-correspondents/2018-12-06/note-correspondents-joint-declaration-chairperson-african. For EU policies, see *Upgraded Generic Standards of Behaviour for CSDP Missions and Operations*, adopted 7 March 2018, www.eucap-som.eu/wp-content/uploads/2018/04/Upgraded-Generc-Standards-of-Behaviour-ST-6877-2018-INIT-EN.pdf, and for NATO, www.nato.int/cps/en/natohq/opinions_162333.htm?selectedLocale=e
- 103 Note that civilian police and military observers have the status of "experts performing missions" and enjoy UN privileges and immunities. However,

they are subject to the jurisdiction of the host country or territory in respect of any criminal offences that may be committed by them in the host country. See DPKO, Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers, 2003.

104 The Compact was introduced at a High Level Meeting on the Prevention of Sexual Exploitation and Abuse held in the margins of the UN General Assembly on 18 September 2017. For the full text, see www.passblue.com/wp-content/uploads/2017/08/17-377-Voluntary-Compact-English.pdf, and for list of signatories see www.un.org/preventing-sexual-exploitation-and-abuse/content/voluntary-compact

105 For the full text of the Declaration of Shared Commitments on UN Peacekeeping Operations see <https://peacekeeping.un.org/sites/default/files/dpkodfs-declaration-shared-commitments-unpeacekeeping-1812605e.pdf>

106 See Policy on Human Rights Screening of United Nations personnel, 2012, <http://dag.un.org/handle/11176/387395?show=full>

107 These and other cross-cutting themes and priorities are included in the UN's Core Pre-deployment Training Materials. As part of force generation processes member states are required to provide certification that all uniformed personnel have completed UN pre-deployment training. For further details, see <https://research.un.org/en/peacekeeping-community/pre-deployment>

108 For examples of relevant national legal frameworks and arrangements for the investigation and prosecution of crimes applicable to troops/police deployed to UN or other international operations, see <https://peacekeeping.un.org/en/standards-of-conduct>

109 See Update on Allegations of Sexual Exploitation and Abuse in United Nations Peacekeeping Operations and Special Political Missions, 17 May 2016, <https://peacekeeping.un.org/sites/default/files/updatesea.pdf>. Where serious human rights violations or crimes under international law are alleged including sexual violence, the jurisdiction of military courts should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries and to prosecute and try persons accused of such crimes. See Draft Principles Governing the Administration of Justice through Military Tribunals, in Report submitted by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights on the Issue of the administration of justice through military tribunals, UN Doc. E/CN.4/2006/58 (2006).



QUESTION 6: HAVE MEASURES BEEN TAKEN TO PROTECT MEN AND BOYS AGAINST SEXUAL VIOLENCE BY NON-STATE ARMED GROUPS?

Multiple NSAGs have been responsible for crimes of sexual violence in armed conflicts across the globe. Among the conflict-affected countries (past and present) where incidents of sexual violence against men and boys by NSAGs have been documented are: Afghanistan, CAR, Colombia, Côte d'Ivoire, DRC, Iraq, Libya, Mali, Niger, Nigeria, Sierra Leone, Somalia, South Sudan, Syria, Uganda, and Yemen.¹¹⁰ In some situations, NSAGs responsible for such acts are reported to have links with state security forces or to have acted as proxies for them.¹¹¹

As set out in the section on international standards prohibiting sexual violence above, NSAGs are bound by IHL and in certain circumstances by IHRL. In its resolutions, the UN Security Council makes no distinction between state and non-state forces but rather calls on *all parties to armed conflict* to cease all acts of sexual violence and to make and implement specific time-bound commitments to combat it, and to permit unimpeded access for monitoring and provision of services and humanitarian assistance to victims/survivors in areas under their control.¹¹²

States also have responsibilities under IHRL and IHL to protect individuals against abuses by NSAGs. A state may be held generally responsible for the wrongful conduct of non-state actors if it has failed to exercise due diligence to prevent, investigate and respond to such acts. Although there are limitations to the due diligence framework particularly in situations of armed conflict, and states are generally not responsible for acts committed by NSAGs, measures taken by states can nevertheless strengthen protections against sexual violence committed by NSAGs.¹¹³ In certain contexts, states can also be responsible for the conduct of NSAGs where such groups are allied to the state or acting on its behalf.

The role of states in protecting against sexual violence by non-state armed groups

The ability of states to prevent sexual violence by NSAGs will differ according to context. At a minimum, states should criminalise rape and other forms of sexual violence in gender-inclusive terms, thereby setting a clear legal prohibition with adequate punishment (see Question 1). They should likewise set an example by ensuring that the conduct of state security forces is fully compliant with IHRL and IHL (see Question 5). States must also develop and implement policies or plans of action to prevent and respond to sexual violence whether the act is committed by state or non-state actors (see Question 3), and should ensure that allegations of sexual violence, including when committed by NSAGs, are promptly, independently and impartially investigated and that perpetrators are held to account (see Question 8).¹¹⁴

States can also play an important role in engaging directly with NSAGs or facilitating access by others (including the UN, the ICRC and I/NGOs) for the purposes of preventing human rights violations and providing humanitarian assistance including support to victims/survivors of sexual violence. Positive outcomes have resulted where such access has been permitted, including agreements by NSAGs to UN action plans or bilateral commitments to end sexual violence. For example, NSAGs in CAR and Mali have signed action plans with the UN that include preventing and ending sexual violence against children.¹¹⁵ Twenty-four NSAGs in India, Iran, Myanmar, Syria and Turkey have signed deeds of commitment prohibiting sexual violence and gender discrimination with the Swiss-based NGO Geneva Call, and are reported to have taken measures to enforce them.¹¹⁶

Where an armed group is acting on the instruction of, is under the control of, or is acting with the knowledge or acquiescence of a government, the state carries a greater degree of responsibility (in some cases direct responsibility) for their actions. State officials who support the commission of sexual violence by a state-allied armed group may also carry individual criminal responsibility. This also applies to states and state officials that provide political, material or other support to armed groups operating in other countries or which otherwise use them as proxy forces.

Has the state taken all feasible measures to exercise due diligence to protect all persons against sexual violence by NSAGs, including by proscribing sexual violence committed by non-state actors in law and putting in place mechanisms and processes to investigate allegations and to hold individual members of NSAGs accountable?

Does the state permit the UN, the ICRC, I/NGOs and civil society organisations to engage with NSAGs for the purpose of preventing conflict-related sexual violence and to provide assistance to victims/survivors?



Are civilian and military officials prohibited from providing military, financial and other support to NSAGs that are responsible for conflict-related sexual violence including against men and boys and, where there are allegations that such support exists, have independent, impartial investigations been initiated and have those responsible been held to account?

The responsibility of non-state armed groups to prevent sexual violence by their members

Bearing in mind prohibitions on sexual violence within IHL on NSAGs, training and communication initiatives by such groups should ensure clear understanding by those acting under their authority that sexual violence is illegal and will not be tolerated. Prohibitions should also be included in internal rules and other relevant regulations, directives and policy documents, and processes should be established to monitor their implementation. Where members of NSAGs are reasonably suspected of perpetrating conflict-related sexual violence they should be removed from their position and other appropriate sanctions imposed in accordance with international standards. NSAGs should also co-operate with independent investigations and prosecutions of conflict-related sexual violence.

In practice, the record of NSAGs in preventing and addressing conflict-related sexual violence is mixed. For some groups, including those for which sexual violence constitutes part of their ideology and strategic objectives, concerted, coordinated national and international efforts are needed to hold such groups accountable and to provide support to survivors. Nevertheless, some NSAGs have taken measures to prevent conflict-related sexual violence by their members including, as noted above, through engagement with the UN and others, and subsequent commitments have translated into concrete steps to eradicate the practice.

In Mali for example, a unilateral communiqué on preventing and responding to conflict-related sexual violence has been issued by a coalition of NSAGs, the Coordination des Mouvements de l'Azawad (CMA), which has also appointed focal points on sexual violence and is reported to be co-operating with the UN's peacekeeping mission in Mali to prepare and implement a plan that includes prevention, protection, accountability and capacity building.¹¹⁷ In South Sudan, the Chairman/Commander in Chief of the Sudan Peoples' Liberation Movement/Army in Opposition (SPLA-IO) issued a command order in February 2019 prohibiting rape and other forms of conflict-related sexual violence by SPLA-IO members and committing to holding those who disobey to account.¹¹⁸



Have NSAGs taken measures to ensure compliance with applicable international standards prohibiting sexual violence by their members against all persons including men and boys, including by issuing military orders; adopting codes of conduct, internal rules and regulations, directives and other policy documents; conducting training; and establishing effective disciplinary procedures in the event of non-compliance?



Do NSAGs engage with independent and impartial organisations (for example, the UN, ICRC and I/NGOs) to support and monitor their compliance with obligations under IHRL and IHL including in relation to the prevention of conflict-related sexual violence?



Do NSAGs permit unimpeded access to humanitarian assistance in areas under their control, including for the purposes of providing emergency medical care and MHPSS support to survivors of conflict-related sexual violence?¹¹⁹

Notes

110 See for example successive annual reports of the Secretary-General on conflict-related sexual violence and on children and armed conflict and additionally: Afghanistan, Report of the Secretary-General on children and armed conflict in Afghanistan, UN Doc. S/2015/336 (2015). CAR, ASP, "I don't know who can help": Men and boys facing sexual violence in Central African Republic, 23 February 2018 (hereinafter ASP, "I don't know who can help", 2018). Colombia, *Campaña - Violaciones y Otras Violencias Saquen Mi Cuerpo de la Guerra, "Que Dejen de Cazar a las Niñas y los Niños": Informe sobre Violencia Sexual contra Niñas, Niños y Adolescentes en el Conflicto Armado*, 2014. Côte d'Ivoire, Human Rights Watch, "My Heart Is Cut" Sexual Violence by Rebels and Pro-Government Forces in Côte d'Ivoire, 2007. DRC, UN Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO) and OHCHR, *Final Report of the fact-finding missions of the United Nations joint Human Rights Office into the mass rapes and other human rights violations committed by a coalition of armed groups along the Kibua-Mpofi Axis in Walikale Territory, North Kivu, from 30 July to 2 August 2010*, 2011. Iraq, Human Rights Watch, "They Want Us Exterminated" Murder, Torture, Sexual Orientation and Gender in Iraq, 2009. Libya, UN Support

- Mission in Libya (UNSMIL) and OHCHR, *Report On The Human Rights Situation In Libya*, 2015. Mali, Report of the Secretary-General on children and armed conflict in Mali, UN Doc. S/2018/136 (2018). Niger, WRC, *"More Than One Million Pains"*, 2019. Nigeria, Report of the Secretary-General on children and armed conflict, 2018. Sierra Leone, *Witness to Truth: Final Report of the Truth and Reconciliation Commission for Sierra Leone*, 2004. Somalia, OHCHR, *Protection of Civilians: Building the Foundation for Peace, Security and Human Rights in Somalia*, 2017. South Sudan, UN Mission in the Republic of South Sudan (UNMISS), *Conflict in South Sudan: A Human Rights Report*, 2014. Syria, IICI Syria, "I lost my dignity": Sexual and gender-based violence in the Syrian Republic, UN Doc. A/HRC/37/CRP.3 (2018). Uganda, ICC, *Situation in Uganda in the Case of the Prosecutor V. Dominic Ongwen: Victims' requests for leave to present evidence and to present victims' views and concerns in person*, 2 February 2018. Yemen, Report of the Secretary-General on children and armed conflict in Yemen, UN Doc. S/2013/383 (2013).
- 111 For example, during the 1994 genocide in Rwanda, government-backed militia were reported to have forced fathers or sons to have sexual relations with their own daughters or mothers and vice versa, see Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Ségué, Special Rapporteur of the Commission on Human Rights, UN Doc. E/CN.4/1996/68 (1996). In Sudan (Darfur), the state-allied Janjawid are alleged to have been responsible for sexual violence against boys, see Amnesty International, *Sudan: Rape as a Weapon of War: Sexual Violence and Its Consequences*, 2004. In Yemen, groups allied to members of the Saudi Arabia-led Coalition have been accused of committing rape and other forms of sexual violence including against men and boys. See for example OHCHR, *Situation of human rights in Yemen, including violations and abuses since September 2014*, UN Doc. A/HRC/39/43 (2018) and Amnesty International, "Yemen: Ta'iz authorities must tackle child rape and abuse under militia rule", 8 March 2019.
- 112 For example UN Security Council resolution 2467 (2019).
- 113 The responsibility of states to protect against human rights abuses by non-state actors is a long-established principle of IHRL. See for example HRC, General Comment 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, and Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on armed non-State actors: the protection of the right to life, UN Doc. A/HRC/38/44 (2018).
- 114 For further discussion including a list of considerations for determining state compliance with obligations of due diligence, see Report of the Special Rapporteur on violence against women, its causes and consequences, The Due Diligence Standard as a Tool for the Elimination Of Violence Against Women, UN Doc. E/CN.4/2006/61 (2006).
- 115 In Mali, the Coordination des Mouvements de l'Azawad (CMA) signed an action plan with the UN to prevent and end sexual violence and all other grave violations against children in March 2017. In CAR, the Mouvement Patriotique pour la Centrafrique (MPC) and the Front Populaire pour la Renaissance de la Centrafrique (FPRC) signed action plans with the UN in June 2018 and July 2019 respectively that include commitments and measures to prevent and end sexual violence.
- 116 The deed of commitment is a mechanism established by Geneva Call to enable NSAGs to commit to respecting specific humanitarian norms. Its Deed of Commitment for the Prohibition of Sexual Violence in Situations of Armed Conflict and towards the Elimination of Gender Discrimination recognises that women, men, girls and boys can be perpetrators as well as victims of sexual violence and requires signatories to commit to implementing measures including prohibiting, preventing and sanctioning sexual violence, providing victims of sexual violence with access to care and assistance and ensuring their confidentiality and protection. For further information see, <https://www.genevacall.org/what-we-do/>
- 117 See Report of the Secretary-General on conflict-related sexual violence, 2019.
- 118 Copy of Command Order on file with ASP.
- 119 Because this checklist is primarily aimed at states, these recommendations cover only the minimum measures that should be taken by non-state armed groups to prevent and respond to sexual violence by their members and more specific analysis and recommendations should be developed separately.



QUESTION 7: IS CONFLICT-RELATED SEXUAL VIOLENCE AGAINST MEN AND BOYS FACTORED INTO PROTECTION STRATEGIES?

Conflict-related sexual violence occurs in many different circumstances, but risks can be heightened in certain situations. As noted in the introduction, research by ASP and others indicates that men and boys are particularly vulnerable to conflict-related sexual violence when deprived of their liberty, in the ranks of armed forces and NSAGs, when internally displaced, and in refugee settings. While men and boys should be factored into any strategy to combat conflict-related sexual violence, particular attention should be paid to them in these situations.

Protecting male detainees against sexual violence

Men and boys can be particularly vulnerable to arrest and detention in conflict-related settings including as real or perceived opponents of the state or because they have or are presumed to have links with armed opposition groups, and have been subjected to sexual violence in such contexts. Likewise, captured members of opposing forces, including boys detained for their real or alleged association with NSAGs, can be at risk of torture or other ill-treatment including sexual violence where adequate safeguards are not in place to protect them.¹²⁰

Situations of mass internment of civilians can also pose a significant risk of sexual violence, including against interned men and boys.¹²¹ Male refugees and asylum-seekers have been subjected to sexual violence in the context of immigration detention in some countries,¹²² and men and boys have also been subjected to sexual violence when deprived of their liberty by NSAGs.¹²³

In these and other situations of deprivation of liberty, rape and other forms of sexual violence is used as a form of torture to extract information, punish or humiliate. It may also be used for extortion, subjugation or even for "entertainment".¹²⁴ Where sexual violence including sexualised forms of torture is widespread it can be indicative of institutional policies which may meet the threshold of crimes against humanity.

Broader discriminatory treatment and violence against SGM persons can also be heightened in detention contexts where SGM individuals have increased vulnerability to human rights abuses including sexual violence. Sexual orientation and gender identity can also intersect with other characteristics and vulnerability factors, such as age, disability, race, ethnic origin, religious background or economic status, thereby further exacerbating risks of being detained and of ill-treatment when in detention.¹²⁵

Human rights treaties require the adoption of legislative, administrative, judicial or other measures to prevent acts of torture and also require that states ensure humane conditions of detention.¹²⁶ Treaty monitoring bodies have called for detainees to be held only in officially recognised places of detention and have recommended the adoption of other procedural safeguards to reduce the risk of torture and other ill-treatment. These safeguards include maintaining an official register of detainees and the effective implementation of their rights, including the rights to access legal and medical assistance and to contact family members.¹²⁷ These and other detailed preventative measures are set out in the revised Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).¹²⁸

In accordance with the Convention on the Rights of the Child, the detention of boys and girls under the age of 18 years should be avoided and used only as a measure of last resort and for the shortest appropriate period of time (Article 37(b)). Where children are detained, standards set out in the UN Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) should be applied to ensure the protection of their rights and wellbeing.¹²⁹ In line with the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles), states should not detain, prosecute or punish children who have been associated with armed forces or armed groups solely for their membership of such forces or groups. Where children associated with armed forces or groups are detained they should first and foremost be recognised as victims of grave human rights abuses, and their recovery and reintegration should be prioritised.¹³⁰

Both IHRL and IHL provide for detention monitoring and oversight regimes based on the principle that regular and unannounced visits to places of detention can significantly contribute to preventing torture and other forms of ill-treatment of detainees.¹³¹ The Optional Protocol to the Convention against Torture (OPCAT) establishes a system of regular visits to places where people are deprived of their liberty by national preventative mechanisms and by the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Subcommittee on Prevention of Torture).¹³²

Rules of IHL relating to international armed conflict require that parties to the conflict grant the ICRC regular access to persons deprived of their liberty including to verify conditions of detention. In non-international armed conflicts, the ICRC may offer its services to parties to the conflict to verify conditions and re-establish family contact. Attention should be paid by monitoring mechanisms to persons who may be particularly vulnerable to sexual violence in situations of detention including on account of age and sexual orientation and gender identity.¹³³

Protecting the rights of detainees including against torture/sexual violence is especially challenging in situations of armed conflict. Nevertheless, there are examples where conflict-affected states have taken steps that have led to improvements. For example, in Afghanistan where sexual violence is among the forms of torture documented against detainees held on national security charges, the introduction of preventative measures has resulted in a reduction, if not as yet a complete elimination, of recorded incidents. Among the actions taken are the adoption of a National Plan on the Elimination of Torture, accession to the OPCAT, revisions to the Penal Code which now includes a definition of torture that is broadly in line with the Convention against Torture, the enactment of the Anti-Torture Law and the establishment of a national preventative mechanism, the Anti-Torture Commission, mandated to conduct monitoring visits

to detention facilities and investigate allegations of torture.¹³⁴

- Has the Convention against Torture and its Optional Protocol (OPCAT) been ratified?
- Is torture and other cruel, inhuman or degrading treatment or punishment criminalised under national law?
- Are detention safeguards contained in the Mandela Rules, the Beijing Rules and other relevant standards and guidance reflected in rules, regulations and other policies and in ongoing training of all officials involved in detention (including arresting, detaining, interrogating and custodial personnel) and complaints and monitoring personnel?
- Are mechanisms and procedures in place to enable detainees to safely and confidentially report incidents of sexual violence without retaliation, and for complaints to be independently and impartially investigated?
- Has the state set up an independent national preventative mechanism that is able to make regular, unannounced visits to all places of detention, to speak confidentially with detainees and which can recommend measures for strengthened protections and pursue investigations of allegations of sexual violence?
- Do international, independent human rights monitors and child protection experts and the ICRC have regular unimpeded access to all places of detention and, in the case of parties to OPCAT, is full co-operation extended to the Subcommittee on Prevention of Torture, including in facilitating its visits to people deprived of their liberty in relation to armed conflict?

Protecting men and boys against sexual violence within armed forces and armed groups

Children associated with armed forces and armed groups are highly vulnerable to psychological and physical violence including conflict-related sexual violence. The risk to girls of recruitment and use for sexual purposes is well established as are the enormous challenges that girl survivors face in returning and reintegrating into their communities. Although less well documented, boys associated with armed forces and armed groups are also known to have been subjected to sexual abuse by members of such forces and groups, and/or forced to commit acts of sexual violence against others. In some cases boys are reported to have been specifically recruited for sexual purposes.¹³⁵

Information on sexual violence against adult men within military ranks is limited, but studies also suggest that military environments foster unique pressures that facilitate sexual violence and that it is prevalent within some armed forces and NSAGs, including against male members.¹³⁶ In some situations of armed conflict, men and boys have been subjected to sexual violence to pressure them to join state security forces or NSAGs or as a form of punishment for refusing to do so.¹³⁷

Members of armed forces are entitled to the same rights and protections as all other persons, subject to certain limitations imposed by military life. This includes protection against sexual violence by members of the same force or group.¹³⁸ Appropriate legal and administrative procedures should be in place to guarantee this protection and all allegations independently and impartially investigated and perpetrators held to account. Survivors should also receive medical and other care and support to which they are entitled and which addresses their needs and wishes.¹³⁹

In the case of boys (as well as girls), the most effective form of protection against sexual violence within military ranks is to prevent their recruitment in the first place. For children already associated with armed forces or armed groups, strenuous and ongoing efforts are required to secure their release. The obligations of states in this regard are set out in the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) under which the minimum age of compulsory recruitment (conscription) by state armed forces and all forms of recruitment (voluntary and compulsory) by NSAGs is set at 18 years. The Paris Principles provide more detailed guidance for states and others involved in implementing programmes to protect children from unlawful military recruitment and facilitating their release and reintegration.¹⁴⁰

Although OPAC permits voluntary recruitment by state armed forces from the age of 16 years,¹⁴¹ around two thirds of states with armies have committed to a minimum recruitment age of 18 years.¹⁴² Security forces in some conflict-affected states have also signed action plans with the UN to prevent and end the military recruitment and use of children.¹⁴³ Within this framework or unilaterally, many states have taken concrete measures including criminalising recruitment and use of children by parties to conflict, issuing military orders, strengthening age verification processes, appointing child protection specialists and permitting regular unimpeded access to military camps and bases to UN or other child protection experts to verify that no children are present. NSAGs in several countries have also signed action plans with the UN to end the military recruitment and use of children or have signed Geneva Call's Deed of Commitment for the Protection of Children from the Effects of Armed Conflict in which they commit to ensuring that children are not recruited or used in hostilities.¹⁴⁴

Under OPAC, states are also required to provide released children with appropriate assistance for their physical and psychological recovery and their social reintegration. The Paris Principles explicitly acknowledge that boys as well as girls who have been associated with armed forces or armed groups are highly likely to have been subjected to sexual violence and recommends the provision of support services (including health, psychosocial and legal support) in line with international guiding principles of respect, dignity, non-discrimination, safety, security and the best interests of the survivor/child. In practice, many children formerly associated with parties to armed conflict do not benefit from any reintegration support, including the specialist, long-term support required by survivors of sexual violence. ASP research also suggests that the fact that boys as well as girls may have experienced sexual violence is not always recognised in post-release reintegration processes, making it more likely that their medical, psychosocial, protection and other needs will be unmet.¹⁴⁵

- Do military codes of conduct, field manuals, internal rules and regulations and other policy documents explicitly prohibit sexual violence against other members of the same force, including men and boys?
- Is the state a party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC)?
- Has 18 years been established in law as the minimum age of military recruitment and is the unlawful military recruitment and use of children by state armed forces and NSAGs criminalised in national law?
- Have state security forces listed by the UN Secretary-General as having recruited or used children in hostilities agreed and implemented action plans with the UN to prevent and end the practice, and does the government permit access to NSAGs including by the UN, the ICRC and I/NGOs for the purposes of agreeing and implementing action plans or otherwise supporting their compliance with international standards in relation to the military recruitment and use of children?
- Are processes in place to enable both boys and girls released from state security forces or NSAGs to safely and confidentially disclose experiences of sexual violence and to access and receive appropriate medical care, MHPSS and all other necessary support?

Protecting men and boys against sexual violence in situations of forced displacement

Sexual violence is a recognised cause of forced displacement in situations of armed conflict.¹⁴⁶ It is also well established that displacement, whether within states or across borders, greatly exacerbates existing vulnerabilities and creates new risks of sexual violence. There is a growing body of evidence to show that male forcibly displaced persons, refugees and asylum-seekers are highly vulnerable to sexual violence including in settlements for internally displaced persons (IDPs), refugee camps, within host communities,¹⁴⁷ at checkpoints and border crossings¹⁴⁸ and in situations of deprivation of liberty, including immigration detention facilities.¹⁴⁹ Patterns of sexual violence against male refugees and asylum-seekers, perpetrated by smugglers, traffickers and criminal networks, have also been reported.¹⁵⁰ Additionally, sexual violence against males in countries of transit and refuge occurs, including in the contexts of employment, child labour and sexual exploitation for economic reasons including to finance onward travel. Separated and unaccompanied children including boys are particularly vulnerable to sexual violence in such contexts.¹⁵¹

Displaced SGM individuals can face the double stigma of discrimination based both on their actual or perceived sexual orientation

or gender identity and on their status as refugees or asylum-seekers, making them especially vulnerable to sexual violence and exploitation in IDP and refugee settings.¹⁵²

Forced displacement is generally prohibited under international law¹⁵³ and parties to armed conflict are required to prevent and avoid conditions that might lead to displacement of persons – this includes preventing conflict-related sexual violence.¹⁵⁴ Where persons are internally displaced, the primary duty and responsibility to provide protection and humanitarian assistance rests with national authorities. Where the authorities are unable to meet this obligation fully, they must allow impartial humanitarian agencies to do so on their behalf.¹⁵⁵

For persons forced to flee across borders, their right to seek and enjoy asylum from persecution is enshrined in the Universal Declaration of Human Rights (UDHR) and the rights and protections of refugees are set out in the Convention Relating to the Status of Refugees (Refugee Convention) as well as other international human rights instruments.¹⁵⁶ The governing Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) has concluded that when rape or other forms of sexual violence are committed for reasons of race, religion, nationality, political opinion or membership of a particular social group, it may be considered persecution under the Refugee Convention and therefore grounds for recognising claims for refugee status.¹⁵⁷ Trafficked persons, including those who have been trafficked for sexual purposes, may also have valid grounds for asylum under the Refugee Convention, as do individuals subjected to sexual violence committed on account of their sexual orientation or gender identity.¹⁵⁸

The UN Security Council and UN Secretary-General have stressed that conflict-related sexual violence may constitute a gender-related form of persecution, thereby serving as legitimate grounds for asylum, and have called for adequate screening mechanisms for early identification of asylum-seekers who are victims of sexual violence.¹⁵⁹ UN human rights experts have also called on states to ensure that a well-founded fear of persecution on the basis of sexual orientation, gender identity, gender expression, and/or sex characteristics is accepted as a ground for the recognition of refugee status.¹⁶⁰

In general, asylum-seekers should only be detained as a last resort and for the shortest possible time. Detention of asylum-seekers who are victims/survivors of sexual violence as well as other forms of trauma or torture should be completely avoided because it can impact negatively on mental health and expose survivors to further risks including of sexual violence.¹⁶¹ Rather they should be provided with safe shelter, appropriate medical care and psychosocial support. In no circumstances should asylum-seekers or refugees be returned to situations where they are at risk of serious human rights violations or abuses, including conflict-related sexual violence.¹⁶²

Internally displaced children, child refugees and asylum-seekers (especially unaccompanied minors) are among the categories of persons for whom the need for higher levels of protection and special assistance is recognised in international standards.¹⁶³ Although displaced girls and boys face many of the same protection risks, they can also experience protection challenges specific to their gender. Different settings, for example refugee camps and urban environments, also typically generate different protection needs.¹⁶⁴ Migration-related detention of children, including of children fleeing situations of armed conflict, is considered to be inconsistent with the best interests of the child and therefore not justifiable.¹⁶⁵

- Is the state a party to the Refugee Convention and other human rights treaties relevant to the protection of IDPs, refugees and asylum-seekers?
- Is conflict-related sexual violence, including against men, boys and SGM persons, considered in law and in practice to be a form of persecution that may serve as legitimate grounds for asylum or refugee status?
- Do national strategies, action plans and other prevention and protection responses acknowledge that men and boys can be vulnerable to conflict-related sexual violence and include specific measures to address risks to and vulnerabilities of males including vulnerabilities arising from their sexual orientation or gender identity?
- Are mechanisms in place to ensure that in procedures for the determination of refugee status, asylum seekers who may have suffered sexual violence are treated with particular sensitivity and which support their early identification, and are all those involved in receiving asylum seekers/refugees trained to facilitate and manage the safe, confidential and dignified disclosure of experiences of sexual violence, including by men and boys, and to refer victims/survivors to appropriate care and support?
- Is appropriate health care, MHPSS, legal and other necessary support available for IDPs, refugees and asylum-seekers who are survivors of conflict-related sexual violence (whether in their countries of origin, during transit or in receiving countries), and is care tailored to address the specific needs and wishes of all survivors including men and boys? (See also Question 10.)

Notes

- 120 See for example reported incidents in Afghanistan: CAT, Concluding observations on the second periodic report of Afghanistan, UN Doc. CAT/C/AFG/CO/2 (2017); UN Assistance Mission in Afghanistan (UNAMA) and OHCHR, *Treatment of Conflict-Related Detainees: Implementation of Afghanistan's National Plan on the Elimination of Torture*, 2017; and Report of the Secretary-General on children and armed conflict in Afghanistan, UN Doc. S/2015/336 (2015). Burundi: Report of the Commission of Inquiry on Burundi, UN Doc. A/HRC/39/63 (2018) and Report of the Secretary-General on conflict-related sexual violence, 2019. DRC: OHCHR, *Report on most serious violations of human rights and international humanitarian law between 1993 and 2003 in the Democratic Republic of Congo (DRC Mapping Report)*, October 2010. El Salvador: Comisión de Derechos Humanos de El Salvador (CDHES), *La Tortura Actual en El Salvador, San Salvador*, 1986. Guatemala: *Comisión para el Esclarecimiento Histórico, Guatemala, Memoria del Silencio*, June 1999. Indonesia (Timor-Leste): "Chega!" Final Report of the Commission for Reception, Truth, and Reconciliation (CAVR), 2005. Iraq: United Nations Mission in Iraq (UNAMI) and OHCHR, *Report on Human Rights in Iraq: July – December 2012*, June 2013 and Human Rights Watch, *At a Crossroads: Human Rights in Iraq Eight Years after the US-Led Invasion Iraq*, February 2011. Iraq (US Forces): Taguba Report, 2004 and Human Rights Watch, *The Road to Abu Ghraib*, 8 June 2004. Iraqi Kurdistan: Human Rights Watch, *Caught in the Whirlwind: Torture and Denial of Due Process by the Kurdistan Security Forces*, July 2007. Libya: OHCHR and UNSMIL, *Abuse Behind Bars: Arbitrary and unlawful detention in Libya*, April 2018. Israel: B'Tselem and HaMoked, *Unprotected: Detention of Palestinian Teenagers in East Jerusalem*, October 2017 and Public Committee Against Torture in Israel, *Ticking Time Bombs: Testimonies of Torture Victims in Israel*, May 2007. Myanmar: Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar (The Mission on Myanmar), UN Doc. A/HRC/39/CRP.2 (2018); The Mission on Myanmar, *Sexual and gender-based violence in Myanmar and the gendered impact of its ethnic conflicts*, UN Doc. A/HRC/42/CRP.4 (2019); and Amnesty International, *Myanmar: "We Will Destroy Everything": Military Responsibility for Crimes Against Humanity in Rakhine State*, 2018. Peru: Final report of Comisión de la Verdad y Reconciliación (CVR), Sub-section VI, *La Tortura y Los Tratos Cruces, Inhumanos o Degradantes*, August 2003. Russian Federation: Human Rights Watch, *"Welcome to Hell": Arbitrary Detention, Torture and Extortion in Chechnya*, 1 October 2000. Somalia: Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2244 (2015), Annex 7.2, UN Doc. S/2016/919 (2016). South Sudan: Amnesty International, *"Do Not Remain Silent" Survivors of Sexual Violence in South Sudan Call For Justice and Reparations*, 2017. Sudan (Darfur): Amnesty International, *Rape as a Weapon of War: Sexual Violence and Its Consequences*, 2004. Syria: IICI Syria, "I lost my dignity": Sexual and gender-based violence in the Syrian Republic, UN Doc. A/HRC/37/CRP.3 (2018). Sri Lanka: UN, Report of the OHCHR Investigation on Sri Lanka, UN Doc. A/HRC/30/CRP.2 (2015). Uganda: Justice and Reconciliation Project (JRP), *The Beasts at Burcoro: Recounting Atrocities by the NRA's 22nd Battalion in Burcoro Village in April 1991*, JRP Field Note XVII, July 2013. Ukraine & Autonomous Republic of Crimea: OHCHR, *Conflict-related Sexual Violence in Ukraine from 14 March 2014 to 31 January 2017*, 16 February 2017 and Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Ukraine, UN Doc. CAT/OP/UKR/1 (2016). Yemen: Report of the UN High Commissioner for Human Rights containing the findings of the Group of Independent Eminent International and Regional Experts, UN Doc. A/HRC/39/43 (2018); Report of the Group of Eminent International and Regional Experts, Situation of human rights in Yemen, including violations and abuses since September 2014, UN Doc. A/HRC/42/17 (2019), and Final report of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), UN Doc. S/2016/73 (2016).
- 121 See for example BiH, Final Report of the Commission of Experts established pursuant to Security Council Resolution 780 (1992), UN Doc. S/1994/674 (1994). Sexual violence against internees in Northern Ireland has also been reported, see Gerry Adams, "I have been in torture photos, too: The Abu Ghraib images are all too familiar to Irish republicans", in *The Guardian*, 5 June 2004, www.theguardian.com/politics/2004/jun/05/northernireland.northernireland
- 122 See for example Libya: UNSMIL and OHCHR, *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*, 20 December 2018 and WRC, *"More Than One Million Pains"*, 2019. Yemen: Report of the Secretary-General on conflict-related sexual violence, 2019 and Report of the UN High Commissioner for Human Rights containing the findings of the Group of Independent Eminent International and Regional Experts, UN Doc. A/HRC/39/43 (2018).
- 123 See for example CAR: ASP, *"I don't know who can help"*, 2018. Iraq: Report of the Secretary-General on conflict-related sexual violence, 2018. Libya: Report of the Secretary-General on conflict-related sexual violence, 2018, and WRC, *"More Than One Million Pains"*, 2019. Niger: WRC, *"More Than One Million Pains"*. Ukraine: OHCHR, *Conflict-related Sexual Violence in Ukraine from 14 March 2014 to 31 January 2017*, 16 February 2017. Sierra Leone: Witness to the Truth: Final Report of the Truth and Reconciliation Commission of Sierra Leone, Volume 3B, 2004. Syria: IICI Syria, "I lost my dignity": *Sexual and gender-based violence in the Syrian Republic*, UN Doc. A/HRC/37/CRP.3 (2018).
- 124 See WRC, *"More Than One Million Pains"*, 2019.
- 125 Association for the Prevention of Torture (APT), *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*, 2018, see Appendix for weblink.
- 126 Article 2 of the Convention against Torture, and Article 10 of the ICCPR.
- 127 See CAT, General Comment No. 2 on the implementation of article 2 by States Parties (2008) and HRC, General Comment No. 20, concerning prohibition of torture and cruel treatment or punishment (1992).
- 128 The Mandela Rules were adopted by the UN General Assembly in December 2015.
- 129 The Beijing Rules were adopted by the UN General Assembly in November 1985. For further details and recommendations relating to the deprivation of liberty of children, including in situations of armed conflict, see Report of the Independent Expert leading the United Nations Global study on children deprived of liberty, UN Doc. A/74/136 (2019), www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx
- 130 The Paris Principles were adopted in 2007 following global consultations by UNICEF and child protection partners, see Appendix for weblink to the full text.
- 131 See APT, Detention Monitoring, <https://apt.ch/en/detention-monitoring/> and APT, *"Yes Torture Prevention Works": Insights from a global research study on 30 years of torture prevention*, September 2016, see Appendix for weblink.
- 132 The Subcommittee on Prevention of Torture was established under the OPCAT to visit the places of detention and to make recommendations, advise and assist states concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment. OPCAT also requires states parties to establish one or more visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment known as "national preventive mechanisms".
- 133 See for example CRC, General Comment No. 10, Children's right to juvenile justice, UN Doc. CRC/C/GC/10 (2007) and APT, *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*, 2018. See also The Committee on the Rights of Persons with Disabilities, Guidelines on article 14 of the Convention on the Rights of Persons with Disabilities. The right to liberty and security of persons with disabilities, 2015.
- 134 For further details see, UNAMA, *Treatment of Conflict-Related Detainees in Afghan Custody*, <https://unama.unmissions.org/treatment-conflict-related-detainees-afghan-custody>
- 135 See for example Afghanistan (state security forces and NSAGs): UNAMA and OHCHR, *Afghanistan: Protection of Civilians in Armed Conflict, Annual Report 2017*, February 2018; UNAMA and OHCHR, *Afghanistan: Protection of Civilians in Armed Conflict, Midyear Report 2016*, July 2016, and Report of the Secretary-General on children and armed conflict, UN Doc. A/70/836-S/2016/360 (2016). DRC (NSAGs): Report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo, UN Doc. S/2018/502 (2018). Nigeria (NSAGs): Report of the Secretary-General on children and armed conflict, 2018. Syria (NSAGs): ASP, *"Destroyed from within"*, 2018. Uganda (NSAGs): ICC, *Situation in Uganda in the Case of the Prosecutor V. Dominic Ongwen: Victims' requests for leave to present evidence and to present victims' views and concerns in person*, 2 February 2018. Yemen (NSAGs): CRC, Concluding observations, UN Doc. CRC/C/OPAC/YEM/CO/1 (2014) and Report of the Secretary-General on children and armed conflict in Yemen, UN Doc. S/2013/383 (2013). See also Child Soldiers International, *Why 18 Matters: A Rights-Based Analysis of Child Recruitment*, 2018, www.child-soldiers.org/Handlers/Download.ashx?IDMF=1a608665-f302-4bf4-9710-580a4ee7892a
- 136 See for example Colombia where the Center for Historical Memory reported sexual violence against adult male as well as boy recruits by para-military groups, *Grupo de Memoria Historica, Informe General: Basta Ya! Colombia: Memoria de Guerra y Dignidad*, 2012, and Liberia where, according to a population-based survey one-third (32.6%) of former male combatants reported experiencing sexual violence, see, Kirsten Johnson et al, "Association of

combatant status and sexual violence with health and mental health outcomes in post-conflict Liberia", *JAMA*, Vol 300, No.6, 2008, <https://jamanetwork.com/journals/jama/fullarticle/182379>. See also Lindsay M. Orchowski et al, "Evaluations of Sexual Assault Prevention Programs in Military Settings: A Synthesis of the Research Literature", *Mil Med.* 1 March 2018; 183(Suppl 1), www.ncbi.nlm.nih.gov/pmc/articles/PMC5991094/

137 For example: Burundi: Report of the Independent Investigation on Burundi carried out pursuant to Human Rights Council resolution S-24/1, UN Doc. A/HRC/33/37 (2016). CAR: Final report of the Panel of Experts on the Central African Republic, UN Doc. S/2017/1023 (2017), annex 4.13. Peru: CVR, Final Report, Volume VI, "1.8. La Violencia Contra Los Niños Y Niñas," August 2003. Yemen: Report of the Group of Eminent International and Regional Experts, Situation of human rights in Yemen, including violations and abuses since September 2014, UN Doc. A/HRC/42/17 (2019).

138 See Situation in the Democratic Republic of the Congo, *Prosecutor v. Bosco Ntaganda*, (ICC-01/04-02/06), ICC Trial Chamber VI, Judgment on the appeal of Mr Bosco Ntaganda against the 'Second decision on the Defence's challenge to the jurisdiction of the Court in respect of Counts 6 and 9', (15 June 2017); *Prosecutor v. Bosco Ntaganda*, (ICC-01/04-02/06), ICC Trial Chamber VI, Judgment (8 July 2019) 974, 1199.

139 For in-depth discussion and guidance on protection of the rights of members of armed forces, see OSCE Office for Democratic Institutions and Human Rights, *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel*, 2008, www.osce.org/baku/86122?download=true

140 The Paris Principles define a child associated with an armed force or armed group as "any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities."

141 The AU Charter on the Rights and Welfare of the Child sets 18 years as the minimum age for all forms of military recruitment.

142 According to OPAC, Article 3(2), "Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced."

143 For a list of state security forces with action plans on preventing and ending child recruitment and use currently under implementation or which have been implemented, see <https://childrenandarmedconflict.org/tools-for-action/action-plans/>

144 See Reports of the Secretary-General on children and armed conflict for details of actions taken in specific countries to implement action plans on grave violations against children. For more details on Geneva Call's Deed of Commitment for the Protection of Children from the Effects of Armed Conflict, see www.genevacall.org/what-we-do/#

145 See ASP reports, "I don't know who can help", 2018 and "Destroyed from within", 2018

146 See for example Report of the Secretary-General on conflict-related sexual violence, 2019, which notes that "Trends analysis... confirms that sexual violence continues to be used as part of the broader strategy of conflict...It was used to displace communities, expel "so-called" undesirable groups, and to seize contested land and other resources". This and previous reports of the UN Secretary-General also highlight the nexus between sexual violence, trafficking and terrorism which are not addressed in this checklist.

147 See for example CAR: UN, UN, Report of an independent review on sexual exploitation and abuse by international peacekeeping forces in the Central African Republic: "Taking action on sexual exploitation and abuse by peacekeepers", UN Doc. A/71/99 (2016). Jordan: UN Women, *Inter-agency Assessment: Gender-based Violence and Child Protection among Syrian Refugees in Jordan with a Focus on Early Marriage*, 2013, which found that surveyed Syrian refugees in Jordan perceived boys as being more at risk of sexual violence than girls, <http://jordan.unwomen.org/en/digital-library/publications/2013/7/gender-based-violence-and-child-protection-among-syrian-refugees-in-jordan>. Lebanon: UNHCR, "We Keep it in Our Heart": *Sexual violence against men and boys in the Syria Crisis*, October 2017, (hereinafter, UNHCR, "We Keep it in Our Heart", 2017) quoting a 2013 rapid assessment of male (aged 12-24) Syrian and Palestinian refugees from Syria in Lebanon which found that 10.8 % had experienced an incident of sexual harm or harassment in the previous three months, <https://data2.unhcr.org/en/documents/download/60864>. Syria and Turkey: ASP, "Destroyed from within", 2018. Yemen: Report of the Secretary-General on conflict-related sexual violence, 2019.

148 See for example WRC, "More Than One Million Pains", 2019; Amnesty International, *Turkey: Struggling to survive: Refugees from Syria in Turkey*, November 2014; and ASP, "Destroyed from within", 2018.

149 See footnote 124 above.

150 See for example Report of the Secretary-General on conflict-related sexual violence, 2019, and Report of the UN Commissioner for Human Rights on the situation of human rights in Yemen, UN Doc. A/HRC/30/31 (2015)

151 See for example WRC, "More Than One Million Pains", 2019; ASP, "Destroyed from within", 2018; UNHCR, "We Keep it in Our Heart", 2017; UNICEF, *Neither safe nor sound: Unaccompanied children on the coastline of the English Channel and the North Sea*, June 2016, www.unicef.org.uk/publications/2016/6/16/neither-safe-nor-sound/; Reuters, "Migrant children fleeing poverty face labor, sex exploitation in Italy", 1 June 2015, www.reuters.com/article/us-italy-child-labour-idUSKBN00H2YP20150601

152 See for example WRC, "More Than One Million Pains", 2019; UNHCR, "We Keep it in Our Heart", 2017, and Helsinki Citizens' Assembly and Organisation for Refuge, Asylum and Migration (ORAM), *Unsafe Haven: The Security Challenges Facing Lesbian, Gay, Bisexual and Transgender Asylum Seekers and Refugees in Turkey*, Revised edition June 2011, <http://oramrefugee.org/wp-content/uploads/2016/04/oram-unsafe-haven-2011-web.pdf>

153 An exception is provided by IHL only if such measures are required for the security of the civilians involved or imperative military reason. See ICRC Customary IHL Study, Rule 129.

154 See Article 49 of the Fourth Geneva Convention, Article 17 of the Additional Protocol II and ICRC Customary IHL Study, Rule 129. At the regional level, see African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention).

155 See UN Guiding Principles on Internal Displacement, which restate and compile human rights and humanitarian law relevant to internally displaced persons.

156 Inter alia, the ICESCR prohibits discrimination on the basis of nationality and national origin and guarantees the right to an adequate standard of living, the right to health, the right to work, the right to education and the right to adequate housing. Torture and other cruel, inhuman or degrading treatment or punishment is prohibited by the Convention against Torture. The ICCPR also requires states parties to ensure that everyone whose rights are violated has access to an effective remedy.

157 UNHCR, Executive Committee Conclusion, Refugee Protection and Sexual Violence, No. 73 (XLIV), 1993, www.unhcr.org/uk/excom/exconc/3ae68c6810/refugee-protection-sexual-violence.html

158 See UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*, 2003, see Appendix for weblink.

159 UN Security Council resolution 2467 (2019) and Report of the Secretary-General on conflict-related sexual violence in armed conflict, 2019.

160 OHCHR, "UN rights experts urge more protection for LGBTI refugees", 1 July 2019, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24764&LangID=E

161 See UNHCR, *Guidelines on the applicable criteria and standards relating to the detention of asylum-seekers and alternatives to detention*, 2012, www.unhcr.org/publications/legal/505b10ee9/unhcr-detention-guidelines.html

162 Article 33 of the Refugee Convention, and Article 3(1) of the Convention against Torture. In addition, the UN HRC has affirmed that *non-refoulement* obligations arise in respect of a real risk of serious human rights violations of certain rights protected in the ICCPR.

163 For example, Article 22 of the Convention on the Rights of the Child; Article 23 of the African Charter on the Rights and Welfare of the Child; and Principle 4 of the UN Guiding Principles on Internal Displacement.

164 UNHCR, ExCom Conclusion 107(LVIII)(2007) on Children at Risk, www.unhcr.org/uk/excom/exconc/4717625c2/conclusion-children-risk.html

165 See CRC, Report of the 2012 Day of General Discussion: "The Rights of All Children in the Context of International Migration", 2012 and UN Global study on children deprived of liberty, 2019.

PART II:

RESPONDING TO CONFLICT-RELATED SEXUAL VIOLENCE AGAINST MEN AND BOYS

As part of their due diligence obligations, states must investigate, punish and ensure redress for human rights violations committed by state agents including members of state security forces, as well as abuses by third parties including NSAGs. The right of victims to effective remedy for serious crimes under international law including conflict-related sexual violence is also enshrined in IHRL and IHL,¹⁶⁶ and has been elaborated in the jurisprudence of UN treaty bodies.¹⁶⁷

The scope of state obligations is set out in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles on the Right to Remedy) and the Updated Set of principles for the protection and promotion of human rights through action to combat impunity (Updated Set of Principles to Combat Impunity). In addition to legislative, administrative and other measures to prevent violations addressed in Part I of this checklist, these obligations include effective, prompt, thorough and impartial investigation of allegations; equal and effective access to justice for all victims; and effective remedy including prompt reparation for the harms suffered which should include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

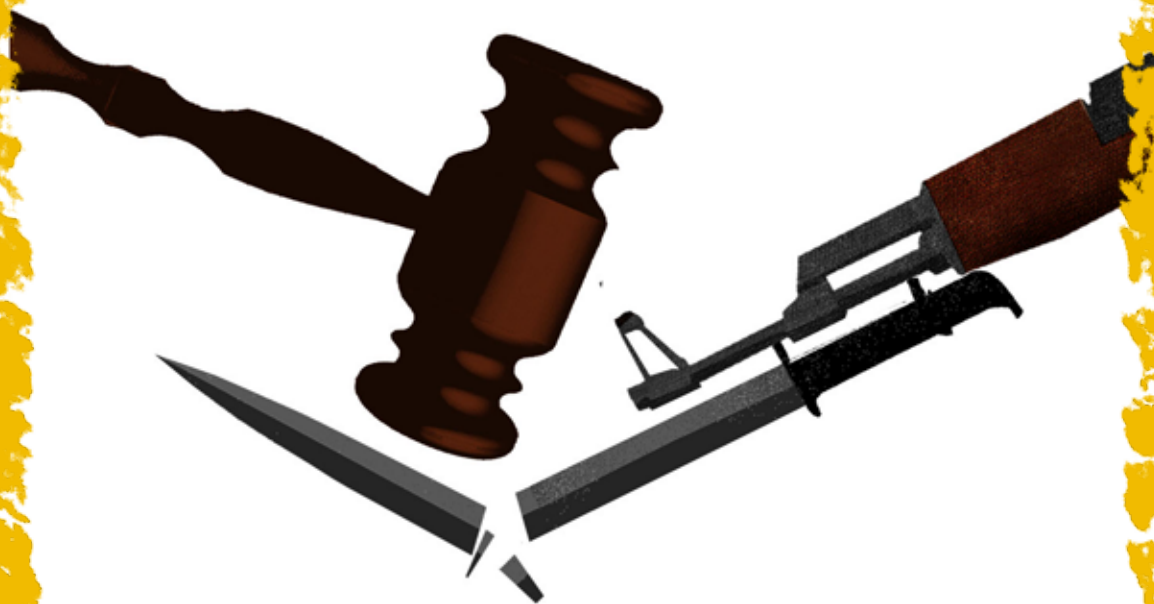
Where children are victims/survivors or witnesses of conflict-related sexual violence, their particular needs and experiences and the additional rights that they carry should be given special consideration in any justice process. The participation of child victims of conflict-related sexual violence in criminal trials, truth-seeking and other transitional justice processes needs to be carefully managed, their best interests prioritised, and their age, abilities, intellectual maturity and evolving capacities taken into account.¹⁶⁸

The Basic Principles on the Right to Remedy also require that survivors of serious crimes under international law receive support for their rehabilitation which should include medical and psychological care as well as legal and social services (Principle 21). Aside from the right to reparations, state parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) have general obligations to provide quality health services including to all survivors of sexual violence without discrimination.

166 See for example Article 8 of the UDHR, Article 2 of the ICCPR, Article 6 of the ICERD, Article 14 of the Convention against Torture, Article 39 of the Convention on the Rights of the Child and regional instruments such as the African Charter on Human and Peoples' Rights (Article 7), the American Convention on Human Rights (Article 25), and the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 13). The obligation to make reparation in case of violations of IHL is reflected Article 1 of Additional Protocol I to the Geneva Conventions, and ICRC Customary IHL Study, Rule 150. The Rome Statute of the ICC also incorporates the right to reparation of victims of crimes under the jurisdiction of the Court.

167 See for example HRC, General Comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13 (2004). See also CAT, General Comment 3, Implementation of article 14 by States parties, UN Doc. CAT/C/GC/3 (2012).

168 See for example Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, ECOSOC resolution 2005/20, principle 8. See also Children and Transitional Justice, Collaboration between the UNICEF Innocenti Research Centre and the Human Rights Program at Harvard Law School, reports and briefings available at www.unicef-irc.org/knowledge-pages/Children-and-Transitional-Justice/567/



QUESTION 8: ARE LAWS, PROCEDURES, EXPERTISE AND CAPACITY IN PLACE TO EFFECTIVELY INVESTIGATE AND PROSECUTE CONFLICT- RELATED SEXUAL VIOLENCE AGAINST MEN AND BOYS?

The consistent and rigorous prosecution of crimes of sexual violence in armed conflict is central to efforts to prevent the occurrence of these crimes.¹⁶⁹ States in whose jurisdiction the alleged crime occurred bear primary responsibility to ensure prompt, thorough, independent and impartial investigations and to ensure that those responsible are brought to justice in accordance with international fair trial standards. To achieve this, the UN Security Council encourages concerned states to strengthen the rule of law and the capacity of justice systems to address sexual violence in armed conflict and post-conflict situations as part of broader efforts to strengthen institutional safeguards against impunity.¹⁷⁰

Where states are unable or unwilling to conduct effective investigations and prosecutions they should co-operate with international tribunals which may exercise concurrent jurisdiction, or with judicial authorities of other states where cases of conflict-related sexual violence are pursued under the principle of universal jurisdiction.¹⁷¹ States should also undertake effective measures including the adoption or amendment of internal legislation, necessary to enable their courts to exercise universal jurisdiction over those crimes of sexual violence that amount to crimes under international law.

Despite some progress, in practice justice still eludes the vast majority of victims/survivors of sexual violence in armed conflict, and prosecution of cases involving men and boys remains rare.¹⁷² Impunity can result from laws that do not recognise rape or other forms of sexual violence against males (see Question 1). Even if recognised in law, male victims/survivors can also face many other obstacles to accessing justice. These can include lack of awareness of the possibility of male victimisation among investigative and judicial officials, and lack of the specialised expertise and capacity needed to effectively investigate and prosecute crimes of sexual violence against men and boys. Men and boys may also be deterred from seeking judicial remedy including for fear of reprisal or of being labelled as homosexual. Discriminatory laws and policies and discriminatory attitudes against SGMs among law enforcement and judicial actors can also severely curtail access to justice by SGM victims/survivors of conflict-related sexual violence.

Including conflict-related sexual violence against men and boys in investigation and prosecution strategies

Unless specifically prioritised in investigation and prosecution strategies, sexual violence against men and boys risks being missed and, in practice, it generally is. Conflict-related sexual violence against men and boys therefore needs to feature as an explicit component of broader strategies on sexual violence from preliminary investigation; in the development of case hypotheses and investigation and prosecution strategies; in the analysis of crime patterns; in the screening, selection, interview, and testimony of witnesses; at the sentencing and reparation stages; and in submissions on appeal and witness protection, including after the conclusion of proceedings.

Examples of good practice in this regard are limited. To the extent that they exist, they are found mainly in international tribunals rather than in national courts. Nevertheless, national judicial institutions in BiH, building on the legacy of the International Criminal Tribunal for the former Yugoslavia (ICTY), have demonstrated a commitment to addressing sexual violence that occurred during the 1992–1995 armed conflict following the break-up of the Socialist Federal Republic of Yugoslavia. Despite concerns about the way in which cases involving men and boys have been treated by the BiH courts, the trials have nevertheless been important in recognising male victims of sexual violence.¹⁷³

Promising practice is also emerging from hybrid courts in Cambodia and CAR. In the former, a landmark judgement in 2019 by the Extraordinary Chambers in the Courts of Cambodia (ECCC) recognised men as among the victims of forced marriage and sexual crimes and convicted two former Khmer Rouge leaders of, among other crimes, "other inhumane acts as a crime against humanity through conduct characterised as forced marriage and rape in the context of forced marriage".¹⁷⁴ In CAR "rape, sexual aggression and sexual slavery" are among the international crimes explicitly prioritised in the prosecution strategy of the Special Criminal Court (SCC) with explicit reference to boys as well as girls.¹⁷⁵ Although it is too early to know to what extent sexual violence against males will feature in prosecutions, in an encouraging sign the Special Prosecutor has indicated that the SCC's outreach strategy will seek to reach victims/survivors, including men and boys, who are reluctant to speak out.¹⁷⁶

The ICC's development of more gender-inclusive strategies and capacities on conflict-related sexual violence also provide a useful model for national-level justice processes. In 2014, the Office of the Prosecutor launched a Policy Paper on Sexual and Gender-Based Crimes which affirmed its commitment to addressing such crimes, provided clarification on key concepts including its applicability to men and boys, and set out guidance on implementation.¹⁷⁷ Other measures to strengthen the ICC's capacity to investigate and prosecute cases of sexual violence, including cases involving male victims/survivors, have included the employment of gender experts to work with trial teams and within the Office of the Prosecutor and the Investigation Division. An expert on sexual and gender-based crimes against men and boys also provides tailored support to investigation and prosecution teams on how to accurately and effectively deal with the issue in current and future cases.¹⁷⁸



Do investigation and prosecution strategies address conflict-related sexual violence? Is sexual violence against men and boys explicitly acknowledged in such strategies, and do they incorporate an understanding of male vulnerabilities to sexual violence including the role of sexual orientation and gender identity?

Ensuring capacity for investigating and prosecuting sexual violence against men and boys

The need for dedicated capacity to investigate and prosecute crimes of sexual violence is increasingly recognised, as is the importance of mechanisms to facilitate the safe, confidential reporting of incidents by victims/survivors and witnesses. To this end, the UN Security Council has called, where appropriate, for specialised police units and courts to address such crimes.

Several countries have adopted this model. In CAR for example, a joint police/gendarmerie unit, the Joint Unit for Rapid Intervention and Eradication of Sexual Violence against Women and Children (UMIRR), has been established specifically to investigate and prosecute crimes of sexual violence and provide support to victims/survivors.¹⁷⁹ In addition to law enforcement officials, the unit offers legal and psychosocial services and has developed referral systems to medical NGOs for victims/survivors. Hundreds of persons have reported to the unit, and several dozen cases of conflict-related sexual violence including some involving male victims/survivors, had been registered at the time of writing.¹⁸⁰

Where there is a lack of trust in criminal justice institutions, victims/survivors who wish to avoid contact with the police or other authorities may nevertheless seek medical care or other support. Some countries have adopted integrated models in which medical, psychosocial, protection and legal services are provided in a single location such as a hospital or health clinic. This enables victims/survivors to access emergency and longer-term support in one location as well as to seek legal advice and support if they wish to file cases with investigative authorities. Although the decision must rest with the individual victim/survivor as to whether they wish to report to investigative bodies, experience in some contexts suggests that where multi-sectoral services and legal support are available in one place they may be more willing to do so.¹⁸¹

If survivors/witnesses are to report, specialised expertise and capacity on sexual violence within the investigation and prosecution units and among the judiciary is essential to ensure appropriate and sensitive responses. Lessons learned from the International Criminal Tribunal for Rwanda (ICTR) recommends specialist units or working groups for sexual violence cases comprising investigators, prosecutors, witness support personnel, health care providers, counsellors, and interpreters, all of whom should have received training on the subject of sexual violence including in the handling of sexual violence cases and treatment of victims/survivors.¹⁸²



Is specialist, in-depth, ongoing training provided to all relevant criminal justice officials involved in investigating and prosecuting conflict-related sexual violence including against men and boys?



Do accessible, safe, confidential mechanisms exist to facilitate reporting by victims/survivors of sexual violence, including men and boys, to investigative authorities?



Does specialist capacity and expertise exist within investigation and prosecution units, or can investigative and prosecutorial staff access necessary expertise to ensure survivor-centred, effective accountability processes for cases of conflict-related sexual violence, including cases involving men and boys and cases in which the sexual orientation or gender identity of the victim/survivor is relevant?

Protecting male victims/survivors and supporting their participation in criminal justice processes

The wellbeing of victims/survivors must be a primary consideration in any accountability process. Such processes should employ a victim/survivor-centred approach in which informed individual choices, needs and rights are the key drivers. Victims/survivors should be treated with humanity and respect for their dignity and human rights, and appropriate measures taken to ensure their safety, physical and psychological wellbeing and privacy, as well as that of their families.¹⁸³

Concerns continue to be raised about the general lack of progress in providing effective protection for survivors and witnesses of conflict-related sexual violence in national settings where victims/survivors can face threats, intimidation, retaliation and re-traumatisation as well as risks arising from stigma and shame often associated with this crime.¹⁸⁴ While this applies to all victims/survivors of sexual violence, men and boys may also have additional fears including that participation in justice processes will lead judicial officials and others to question their "manhood". SGM persons may also fear public outing and other negative repercussions arising from their participation in justice processes, such as social ostracism, loss of employment and, in countries where consensual same-sex relations are criminalised, arrest and prosecution.

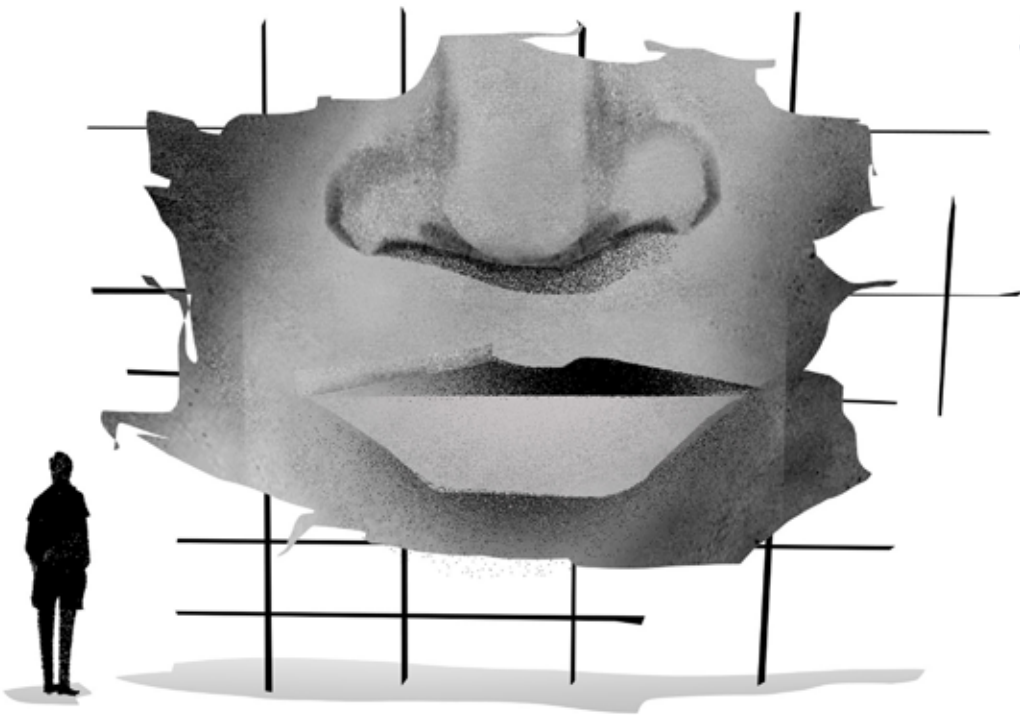
The challenges of protection are particularly acute in fragile and complex contexts such as conflict and post-conflict situations where resources and capacity are often limited. Special arrangements are nevertheless required to ensure protection and to facilitate safe, confidential participation in criminal justice processes. Protective measures should address the risks of harm experienced differently by women, men, girls and boys and SGM persons. These can include procedural or evidentiary rules to ensure the confidentiality and privacy of victims. They should also include measures to protect their mental and emotional wellbeing and to ensure their safety and security before, during and after judicial processes. In all cases, victim/survivor participation in decision-making processes is critical to ensuring that the measures are respectful of their wishes and concerns and will ultimately do no harm.¹⁸⁵



Are effective measures in place to ensure the safety, confidentiality, privacy and broader protection of victims and witnesses of conflict-related sexual violence in accountability processes and has consideration been given to specific measures that may be needed for the protection of male and SGM victims/survivors, including potential risks arising from discriminatory laws, policies and attitudes?

Notes

- 169 See for example UN Report of the Secretary-General on conflict-related sexual violence, UN Doc. S/2016/361/Rev.1 (2016), para. 10: "*Rapists anticipate that their victims will not have the means, courage or support required to testify against them, especially in the chaos of conflict. Prosecution is therefore essential to prevention, because it can deter potential perpetrators and contribute to restoring faith in the rule of law. It demonstrates that no political or military leader is above the law.*"
- 170 UN Security Council resolution 2467 (2019).
- 171 Updated Set of Principles to Combat Impunity, Principles 19, 20 and 21.
- 172 Cases involving sexual violence against men and boys have been prosecuted by the ICC, the International Tribunal for the former Yugoslavia (ICTY), and Extraordinary Chambers of the Court of Cambodia (ECCC). For further information see Patricia Viseur Sellers and Leo C. Nwoye, "Conflict-related Male Sexual Violence and the International Criminal Jurisprudence," in Marysia Zalewski et al., *Sexual Violence against Men and Boys in Global Politics*, 2018.
- 173 For further details see OSCE, *Towards Justice for Survivors of Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress before Courts in BiH 2014-2016*, 20 June 2017, www.osce.org/mission-to-bosnia-and-herzegovina/324131
- 174 ECCC, *Case 002/02 Judgment*, (002/19-09-2007/ECCC/TC), 16 November 2018, paras. 3695-3701. Numerous men and women in Cambodia were forced to have conjugal relations with each other with punishment for non-compliance ranging from re-education to threats or execution. See Patricia Sellers and Leo Nwoye, "Conflict-related Male Sexual Violence and the International Criminal Jurisprudence," in Marysia Zalewski et al., *Sexual Violence against Men and Boys in Global Politics*, 2018.
- 175 The SCC was established in June 2015 to investigate and prosecute grave human rights violations and serious violations of IHL in CAR since 2003. The SCC's strategy is available in French at, https://cps-rca.cf/fichiers_joints/Strategie_de_poursuite_CPS.pdf
- 176 See ASP, "*I don't know who can help*", 2018.
- 177 ICC, Office of the Prosecutor, Policy Paper on Sexual and Gender-Based Crimes, June 2014, www.icc-cpi.int/iccdocs/otp/otp-Policy-Paper-on-Sexual-and-Gender-Based-Crimes--June-2014.pdf
- 178 The conviction by the ICC in July 2019 of Bosco Ntaganda, the former leader of the Union of Congolese Patriots/Patriotic Forces for the Liberation of Congo, as an indirect co-perpetrator of rape committed in the DRC in 2002-2003 as a crime against humanity and as a war crime, was the ICC's first conviction for sexual violence and a rare case that characterises conflict-related sexual violence against males as rape. The case is also important for holding an accused, who was a superior, liable as an indirect perpetrator of conflict-related sexual violence. See *Prosecutor v. Bosco Ntaganda*, (ICC-01/04-02/06), Judgment (8 July 2019) 321-323, 623, 940-942, 1199 and Part VII. An appeal is currently pending.
- 179 UMIRR is supported by the UN Team of Experts on the Rule of Law and Sexual Violence in Conflict, the UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and the United Nations Development Programme (UNDP).
- 180 According to the Report of the Secretary-General on conflict-related sexual violence, 2019, UMIRR had registered 33 victims of conflict-related sexual violence including 27 women, 4 girls and 2 men. While the low numbers of reported incidents involving males compared to females may reflect patterns of sexual violence in CAR, it is possible that excluding men from the title of the Unit may discourage reporting by them.
- 181 See Report of the Secretary-General on conflict-related sexual violence, 2016, with reference to the DRC where 66% of rape survivors who received integrated medical, psychosocial and legal support opted to file a case.
- 182 ICTR, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 30 January 2014, see Appendix for weblink.
- 183 See Basic Principles on the Right to Remedy, Part VI, Treatment of Victims.
- 184 See Report of the Secretary-General on conflict-related sexual violence in armed conflict, 2019, para. 28: "*Aside from the enactment of victim and witness protection laws in some settings or the creation of specific units like the Victim and Witness Protection Unit of the Special Criminal Court in the Central African Republic, reports indicate little systemic or sustained improvement in this regard.*"
- 185 For detailed discussion on issues involved in protecting victims of sexual violence, see OHCHR, *Protection of victims of sexual violence: Lessons learned*. Workshop report, 2019.



QUESTION 9: IS CONFLICT-RELATED SEXUAL VIOLENCE AGAINST MEN AND BOYS ADDRESSED IN TRUTH-SEEKING PROCESSES AND REPARATIONS PROGRAMMES?

In situations where massive human rights abuses have occurred, as is often the case in armed conflict, UN bodies and experts have repeatedly stressed the importance of a comprehensive approach to justice.¹⁸⁶ In its 2019 resolution on women, peace and security, the UN Security Council explicitly called on states to ensure the opportunity for the full and meaningful participation of survivors of sexual and gender-based violence at all stages of transitional justice processes.¹⁸⁷

Addressing sexual violence in non-judicial transitional justice processes, including truth-seeking processes and reparations programmes, can complement and reinforce criminal justice processes by providing broader and more in-depth understandings of the scale, nature, causes and consequences of abuses as well as greater recognition of victims and more gender sensitive and transformative responses to survivors than is possible via the courts.

Truth commissions are often well placed to identify the systematic nature of sexual violence and the underlying structural discrimination that enabled it to occur. Incorporating a gender perspective into their work can also help to break down that stigma and change societal attitudes regarding sexual violence. Gender-sensitive reparations programmes can respond to specific harms experienced by affected individuals, respond to priorities and needs which may differ according to many different factors including age, sex and gender, and also addressing broader harms to the families and communities of victims/survivors.¹⁸⁸

Addressing sexual violence against men and boys in truth-seeking processes

The right of victims/survivors and their families to know the truth about the circumstances in which violations took place irrespective of legal proceedings and the role of the state in giving effect to "the right to know" are among the principles contained in the Updated Set of Principles to Combat Impunity.¹⁸⁹ The right to truth and its importance in contributing to ending impunity and promoting and protecting human rights is also recognised elsewhere including in UN General Assembly and Human Rights Council resolutions which have called for the establishment of truth and reconciliation commissions to investigate violations of IHRL and IHL.¹⁹⁰

Where truth commissions have been mandated to address conflict-related sexual violence or have interpreted their mandate to include it, the focus has been primarily on women and girls. So far, few have paid attention to sexual violence directed against men and boys and where they do rape and other forms of sexual violence against males has often been classified as torture or other forms of physical violence such that neither the sexualised nature of the acts nor the motivation of perpetrators and the full impact on victims, their families and communities has been recognised.¹⁹¹

As with criminal justice processes there are also significant challenges to ensuring the participation of victims/survivors of sexual violence in truth-seeking processes. In the same way that special measures such as outreach, specially trained investigators and closed sessions with female-only commissioners have been used to encourage female victims/survivors to provide testimonies to truth commissions in some contexts, consideration should also be given to whether comparable measures are needed to facilitate the participation of male victims/survivors and to other categories of persons, such as SGMs, who may otherwise be excluded.

There are positive signs that such concerns are being addressed by Colombia's Commission for the Clarification of Truth, Coexistence and Non-Repetition (CEV). Established pursuant to the 2016 peace agreement between the Government of Colombia and the FARC-EP, the CEV's guiding criteria and mandate emphasise its gender-sensitive approach and its role in addressing the different ways in which the conflict impacted different persons including on account of age and gender.¹⁹² Although the mandate makes no explicit reference to conflict-related sexual violence, it is among the abuses being addressed and reports of CEV outreach activities indicate that it is considering and consulting on how to ensure the participation of male as well as female victims/survivors.¹⁹³ The CEV's mandate specifically lists "LGBTI populations" as among the categories of persons which the CEV should seek to address in clarifying the impact of the conflict. To this end, co-operation with LGBTI groups is reportedly being sought and SGM victims/survivors of sexual violence have been recognised in early activities by the CEV.¹⁹⁴

- Do mandates of truth commissions/truth-seeking bodies include gender-inclusive definitions of rape and sexual violence and do their policies and procedures include measures to support the investigation of conflict-related sexual violence against all affected persons, including men and boys?
- Are outreach strategies and other measures in place to encourage and support the safe, confidential participation of all victims/survivors of conflict-related sexual violence including men and boys in truth-seeking processes?
- Have staff and commissioners of truth commissions, or other relevant national fact-finding mechanisms and processes, received in-depth training on sexual violence including against men and boys, and are interviewers trained in techniques to safely, confidentially and sensitively identify and record the experience of male as well as female victims/survivors of sexual violence, including those who have been targeted on account of their actual or perceived sexual orientation or gender identity?

Ensuring reparations for male victims/survivors of sexual violence

In accordance with the Basic Principles on the Right to Remedy, states should provide reparations for acts or omissions that can be attributed to it and that constitute gross violations of IHRL or serious violations of IHL. Where non-state parties are found liable for reparation to a victim but are unable or unwilling to meet their obligations, the state should endeavour to establish national programmes to provide reparation and other assistance.¹⁹⁵

The UN Secretary-General's Guidance Note on Reparations for Conflict-Related Sexual Violence sets out key principles for designing and implementing gender-sensitive reparations programmes that are specifically tailored to the harms, sensitivity and stigmas attached to sexual violence and the specific needs of victims/survivors of sexual violence. The Guidance Note calls for reparations programmes and tribunals to explicitly acknowledge that men and boys who suffer conflict-related sexual violence also need rehabilitation and that their needs (such as health, education and housing) may be different to that of women and girls.¹⁹⁶ Similar considerations should be taken into account in relation to SGM persons.

In practice, reparations for victims of conflict-related sexual violence remain an exception and crimes of sexual violence are still not routinely included in reparations programmes.¹⁹⁷ Where provided, male victims/survivors can still be excluded if the definition of victims/survivors in relevant legislation or policies is not gender-inclusive.¹⁹⁸ Exclusion may also result from stigma and shame which can deter victims/survivors from registering for reparations and thereby reveal what has happened to them. It can also occur if outreach efforts pay insufficient attention to assisting male victims/survivors to come forward and claim their rights.¹⁹⁹

Given that reparations programmes can take time to design and implement, interim reparations should be made available to respond to the most urgent and immediate harm affecting victims/survivors of conflict-related sexual violence. This should include urgent medical treatment and livelihood support and should be designed to respond to the gender and age specific needs of all persons.²⁰⁰

In addition to more tangible benefits such as financial compensation and health care, formal apologies, commemorations and other measures to officially acknowledge and commemorate victims can also help to repair harms. Careful and sensitive acts of acknowledgement and memorialisation designed in consultation with victims/survivors can contribute to their recognition and help to reduce stigma and shame. The Secretary-General's Guidance Note recommends that more should be done in this area in relation to conflict-related sexual violence against men and boys, as well as for groups who have faced discrimination, including on the basis of their actual or perceived sexual orientation and gender identity.²⁰¹

- Are comprehensive, victim/survivor-centred, gender-inclusive reparations available to and accessible by all survivors of sexual violence including men and boys?
- Pending the establishment of comprehensive reparations programmes, has the state provided interim reparations to respond to urgent medical and other immediate harms resulting from sexual violence, including for male victims/survivors?

Notes

- 186 See for example Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, UN Doc. A/HRC/21/46 (2012).
- 187 UN Security Council resolution 2467 (2019).
- 188 See OHCHR, Analytical study focusing on gender-based and sexual violence in relation to transitional justice, UN Doc. A/HRC/27/21 (2014).
- 189 Updated Set of Principles to Combat Impunity, Principles 2 to 5.
- 190 UN General Assembly resolution 8/165 (2014), and Human Rights Council resolutions 21/7 (2012), 9/11 (2008) and 2005/66 (2005).
- 191 For detailed discussion of the way in which sexual violence against men and boys has been addressed by transitional justice processes including truth-seeking processes, see International Center for Transitional Justice (ICTJ), *When No One Calls it Rape: Addressing Sexual Violence Against Men and Boys in Transitional Contexts*, December 2016, www.ictj.org/sites/default/files/ICTJ_Report_SexualViolenceMen_2016.pdf
- 192 See "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace", 24 November 2016 and Decree 588, 5 April 2017. There are reported to have been 25,000 victims of sexual violence identified between 1985 and 2016, of which 91% are women and girls, but which also include men and boys and SGM persons.
- 193 See CEV, "Acoso, violencia, temor y silencio", 14 June 2019, <https://comisiondelaverdad.co/actualidad/noticias/violencias-sexuales-noriente-colombia-acoso-sexo-violencia-temor-y-silencio>
- 194 See "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace", 24 November 2016; Decree 588, 5 April 2017; CEV, "Encuentro por la Verdad: 'Mi Cuerpo dice la Verdad'", 26 June 2019, <https://comisiondelaverdad.co/actualidad/noticias/primer-encuentro-por-la-verdad-mi-cuerpo-dice-la-verdad>; and CEV, "Colombia Diversa, Limpal Colombia y Taller de Vida firmaron acuerdos de colaboración con la Comisión", 4 September 2019, <https://comisiondelaverdad.co/actualidad/noticias/colombia-diversa-limpal-colombia-y-taller-de-vida-firmaron-acuerdos-de-colaboracion-con-la-comision>
- 195 Basic Principles on the Right to Remedy, Principles 15 and 16.
- 196 Guidance Note of the Secretary-General: Reparations for Conflict-Related Sexual Violence, June 2014, see Appendix for weblink.
- 197 For example, in Nepal victims/survivors of conflict-related sexual violence were not among the categories of persons entitled to relief under the "Interim Relief and Rehabilitation Program" for human rights abuses committed during the 1996-2006 armed conflict.
- 198 For example, in Iraq a bill submitted to the parliament for approval in April 2019 (the Yazidi Female Survivors Law) includes reparation measures for female Yazidi survivors of conflict-related sexual violence by ISIL. Although an important step in acknowledging the disproportionate impact of sexual violence on Yazidi women and girls, it excludes men and boys as well as SGM persons who also suffered from such crimes, albeit to a lesser extent. For detailed analysis of the bill see Güley Bor, "Iraq's Reparations Bill for Yazidi Female Survivors: More Progress Needed", *LSE Middle East Centre Blog*, 26 April 2019, <https://blogs.lse.ac.uk/mec/2019/04/26/iraqs-reparation-bill-for-yazidi-female-survivors-more-progress-needed/>
- 199 See ASP, *Legacies and Lessons: Sexual violence against men and boys in Sri Lanka and Bosnia and Herzegovina*, 16 May 2017.
- 200 Urgent interim reparations should be distinguished from social or humanitarian assistance measures, as they are based on the recognition of state responsibility and require state and political support.
- 201 Guidance Note of the Secretary-General: Reparations for Conflict-Related Sexual Violence, June 2014.



QUESTION 10: DO MALE VICTIMS/SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE HAVE ACCESS TO MEDICAL CARE, MENTAL HEALTH AND PSYCHOSOCIAL SUPPORT?

The right to health of all persons is enshrined in the UDHR (Article 25.1). State parties to the ICESCR recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and are required to take steps to create conditions to assure medical services and medical attention are available to all in the event of sickness (Article 12.1). The Committee on Economic, Social and Cultural Rights has set out the "interrelated and essential elements" of the right to health, which include that good quality health care facilities, goods and services should be available in sufficient quantity within the country, that they are physically and economically accessible to everyone without discrimination, and are culturally appropriate and gender and age sensitive.²⁰² Other international and regional human rights instruments also address state obligations with regards to the right to health, sometimes generally and sometimes in relation to specific categories of persons such as women, children and persons with disabilities.²⁰³

Victims/survivors of sexual violence often suffer profound physical and mental health consequences as well as social and economic impacts requiring emergency and long-term care and support. International protocols and guidelines on care for survivors of sexual violence set out minimum standards for ensuring availability of and access to comprehensive, quality, free, confidential, non-stigmatising, survivor-centred health care and MHPSS, including for male and SGM survivors, which should also take account of and respond appropriately to other factors such as age, disability and culture.²⁰⁴ In addition to emergency medical treatment and psychological first aid, services should be available to all victims/survivors to provide longer-term physical and mental health care, protection, livelihood support and legal aid.

In many situations of armed conflict, emergency clinical care, health care and other services are unavailable or difficult to access. This can result from a general lack of services, insecurity, geographic location or cost. The availability and quality of and accessibility health care and other support by male victims/survivors can also be adversely affected if services are not designed to include them, or if service providers do not have the necessary training or experience to identify and respond to their specific needs. Societal taboos, stigma and feelings of shame can also deter male survivors from disclosing their experiences and seeking help.²⁰⁵ SGM victims/survivors may face similar obstacles which can also be exacerbated by discriminatory laws and by discriminatory policies, practices and attitudes of health care institutions and personnel towards persons of diverse sexual orientation and gender identity.

Ensuring legal and policy frameworks support the right to health of male victims/survivors of sexual violence

Under international law, states are required to make every possible effort, within available resources, to progressively realise the right to health. Notwithstanding lack of resources or other constraints, some obligations have an immediate effect and should be applied even in situations of armed conflict. The provision of emergency medical care and other vital support for survivors of conflict-related rape and sexual violence should be considered as among the immediate priorities in realising the right to health.²⁰⁶ As a first step, states should guarantee the right to health of victims/survivors in an equitable, non-discriminatory manner, ensure that appropriate legislation is in place, and develop strategies or plans of action to strengthen health responses.²⁰⁷

Laws or policies that do not acknowledge male vulnerability to sexual violence can directly affect the availability of medical care and other support for male victims/survivors and should be revised so that they are gender-inclusive. Additionally, discriminatory laws including laws that criminalise homosexuality can inhibit male and SGM victims/survivors from seeking assistance and hinder the ability of health care actors to respond to their needs (see also Question 1). Mandatory requirements on health care providers to report sexual violence to the police or other public authorities can also deter victims/survivors who do not wish to pursue legal action and may also conflict with principles of confidentiality and self-determination and create risks of further victimisation.²⁰⁸

As noted under Question 3, national action plans are important for establishing comprehensive, co-ordinated approaches to preventing and addressing sexual violence and for earmarking financial and other required resources. They should include measures to ensure the availability of and access to medical care and MHPSS by all survivors. There should be explicit acknowledgment that men, boys and SGM individuals may be among victims/survivors and plans should include the development of comprehensive, emergency and long-term, survivor-centred, quality gender and age appropriate services that are accessible to all survivors without discrimination.

In many situations of armed conflict, state health and other services are degraded and survivors of sexual violence are reliant on the humanitarian community to provide medical care and other support. In fulfilling obligations to ensure the right to health, states must therefore facilitate the work of humanitarian actors in providing care and support to victims/survivors of sexual violence. Parties to armed conflict are specifically required under IHL to protect medical and health facilities and personnel including humanitarian workers.²⁰⁹ States must therefore take specific preventative measures including by criminalising and condemning attacks on health facilities and workers and adopting laws to protect health workers from

being punished for providing medical care to “enemies” or “terrorists”. Military policies, rules and regulations and training should clearly state that health care must be respected at all times and all feasible measures should be taken to physically protect health facilities, health professionals and other humanitarian workers from attack by third parties.²¹⁰

Have legal and policy barriers to accessing medical care and MHPSS by male and SGM victims/survivors of sexual violence been removed, including discriminatory laws and policies?

Do relevant strategies and plans include measures aimed at ensuring that comprehensive, free, quality, confidential medical care and MHPSS services are available for all survivors of sexual violence including men and boys, and to build the skills, knowledge and capacity among all relevant health and MHPSS professionals and institutions to respond appropriately to the needs and wishes of all survivors without discrimination?

Have all feasible legal, policy and practical measures been taken by the state to protect health facilities, health and humanitarian workers and others involved in providing care and assistance to victims/survivors of conflict-related sexual violence?

Ensuring that male victims/survivors of sexual violence have access to appropriate medical care and MHPSS

UN treaty bodies have called on states, including those affected by armed conflict, to take immediate actions such as investment in the training of health care personnel and, in the case of child victims/survivors of sexual violence (including child IDPs, refugees and asylum-seekers), to provide adequate medical treatment, mental health care and psychosocial support.²¹¹ The provision of comprehensive clinical services for survivors of sexual violence has also been called for by the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Special Rapporteur on the right to health).²¹²

The UN Security Council has stressed that survivors of sexual violence, including men and boys, should receive non-discriminatory access to services and benefit from relief and recovery programmes, including health and psychosocial care, safe shelter, livelihood support and legal aid.²¹³ The UN Secretary-General has likewise stressed the need for non-discriminatory assistance to survivors, calling for the delivery of multi-sectoral assistance for all survivors of sexual violence, including clinical management of rape, medical, psychosocial and legal services and for particular attention to be paid to the diverse range of victims including male survivors and SGM persons who may require specialised responses.²¹⁴

Health professionals should receive ongoing training, support and supervision to enhance their capacity to deliver quality care to all survivors regardless of sex, sexual orientation or gender identity. Guidelines recommend that, where feasible, a gender-based violence caseworker is included on the staff of health facilities. In designing and resourcing medical and MHPSS services, victims/survivors including males should be among those consulted and services designed to be accessible to them and responsive to their needs and wishes. The incorporation of messaging on sexual violence (among other forms of gender-based violence) into health-related community outreach and awareness-raising activities is also recommended that incorporates messaging on, inter alia, prevention, where to report to, health effects, and benefits of and how to access medical treatment and other care and support.²¹⁵

In CAR, sensitisation campaigns and community awareness programmes have been carried out with the aim of enhancing understanding of different types of violence, including sexual violence against men and boys, and of creating awareness of available services and support. These campaigns and programmes are reported to have led to significant increases in levels of reporting and use of services by both male and female survivors. Engagement with and training of community-based protection mechanisms and community leaders is also reported to have yielded similarly positive results in CAR. There and elsewhere, humanitarian workers have emphasised the importance of identifying entry points to facilitate safe, confidential disclosure by male survivors. This should include hospitals and other health facilities, but could also include other social or community spaces in which men and boys gather, or via family and home visits.²¹⁶

Rape and other forms of serious sexual violence, including when it amounts to torture, may require specialised responses involving interdisciplinary clinical and other longer-term medical, mental health and psychosocial support. This type of specialist support rarely exists in conflict-affected countries, but should be factored into the design, development and funding of services for victims/survivors of conflict-related sexual violence. Livelihood assistance should also be made available to ensure that immediate basic needs are met given the frequently devastating effects of sexual violence on the lives of victims/survivors, including their ability to earn a living and to provide for themselves and their families.

- Has the state a party to the ICESCR and other human rights treaties relevant to the right to health?
- Is free, confidential, quality, survivor-centred, 24-hour emergency medical care and MHPSS available to all survivors of sexual violence without discrimination, and is information about how to access services widely disseminated among all affected communities?
- Are health care services designed to facilitate access to and enable safe, confidential disclosure by all victims/survivors of sexual violence, including men and boys, and are health care staff trained to provide necessary medical care and other support to victims/survivors without discrimination?
- Is livelihood support available to survivors of sexual violence including men and boys, and without discrimination on the basis of sexual orientation and gender identity?

Notes

- 202 Committee on Economic, Social and Cultural Rights, General Comment No. 14, The right to the highest attainable standard of health, UN Doc. E/C.12/2000/4 (2000). The scope of the right to health has also been clarified in the work of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
- 203 See for example ICCPR; Convention on the Rights of the Child; Convention on the Elimination of All Forms of Discrimination against Women; ICERD; Convention on the Rights of Persons with Disabilities (Article 25), European Social Charter of 1961 as revised; African Charter on Human and Peoples' Rights; and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988.
- 204 See for example International Rescue Committee and UNICEF, *Caring for Child Survivors of Sexual Abuse, Guidelines for health and psychosocial service providers in humanitarian settings*, 2006; UNHCR and Refugee Law Project, *Working with Men and Boy Survivors of Sexual and Gender-Based Violence in Forced Displacement, Need to Know Guide 4*, 2012; United Nations Population Fund (UNFPA), *Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies*, 2015; WHO, *Responding to children and adolescents who have been sexually abused – WHO clinical guidelines*, 2017; and WHO, *Guidelines for medico-legal care for victims of sexual violence 2003*. See Appendix for weblinks.
- 205 See ASP reports "I don't know who can help" and "Destroyed from within", 2018.
- 206 According to the WHO Guidelines for medico-legal care for victims of sexual violence, 2003, this should include: "*comprehensive, gender-sensitive health services in order to cope with the physical and mental health consequences of their experience and to aid their recovery from an extremely distressing and traumatic event. The types of services that are needed include pregnancy testing, pregnancy prevention (i.e. emergency contraception), abortion services (where legal), STI testing and/or prophylaxis, treatment of injuries and psychosocial counselling.*"
- 207 For further details on the right to health see OHCHR and WHO, Right to Health, Factsheet No. 31, see Appendix for weblink
- 208 For further discussion about mandatory reporting see, IASC, *Interagency Gender-based Violence Case Management Guidelines: Providing Care and Case Management Services to Gender-Based Violence Survivors in Humanitarian Settings*, 2017, see Appendix for weblink.
- 209 Under IHL, hospitals and other facilities set up for medical purposes enjoy special protection and parties to armed conflict (both state and non-state) must not impede the provision of care and should provide the necessary assistance and protection to medical personnel. For further details see ICRC, *Respecting and Protecting Health Care in Armed Conflicts and in Situations Not Covered by International Humanitarian Law*, 2012, www.icrc.org/en/document/respecting-and-protecting-health-care-armed-conflicts-and-situations-not-covered
- 210 The UN General Assembly and UN Security Council have adopted resolutions strengthening norms against attacks on health services and setting out preventative measures to be taken by states. See for example UN General Assembly resolution A/69/L.35 (2014) and UN Security Council resolution 2286 (2016).
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Monitoring, data collection, investigating and reporting

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National action plans/strategies

- OHCHR, Professional Training Series No. 10: Handbook on National Human Rights Plans of Action, 2002
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Conduct of state security forces

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Protection of persons deprived of their liberty

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- CSI, A Law Unto Themselves? Confronting the recruitment of children by armed groups, 2016
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- UNHCR, Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response, 2003
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ALL SURVIVORS PROJECT

The extent to which conflict-related sexual violence impacts men and boys is increasingly recognised with incidents documented in at least 30 conflict-affected countries in recent years. Men and boys can be vulnerable to opportunistic attacks as well as to targeted sexual violence aimed at punishing, humiliating, terrorising and repressing victims/survivors and their communities.

Ongoing efforts to protect women and girls from conflict-related sexual violence show that there are no quick fixes. Rather, prevention requires multi-faceted approaches that address both proximate and root causes and concerted and co-ordinated efforts by many diverse state and non-state actors. However, national authorities have particular responsibilities to respect and promote the human rights of all individuals within their territory and/or jurisdiction.

All Survivors Project (ASP) has developed this checklist on preventing and addressing sexual violence against men and boys to assist governments and those involved in supporting them (amongst others, national human rights institutions; UN peacekeeping and other field operations; UN agencies, offices, experts, treaty bodies and special procedures; and international and national non-governmental organisations) to support national efforts to prevent and respond to conflict-related sexual violence against males.

This checklist is intended to complement ongoing vital and urgently needed efforts to better protect women and girls against conflict-related sexual violence, from which attention to others at risk should not distract or detract. Rather, its aim is to support efforts to ensure that everyone is protected against conflict-related sexual violence and that all victims/survivors have access to justice including reparations, as well as to quality, survivor-centred medical, mental health and psychosocial support and other responses without discrimination.

10 December 2019