



Prevention and Response to Conflict Related Sexual Violence Module I: Strategic Level

“In no other area is our collective failure to ensure effective protection for civilians more apparent - and by its very nature more shameful - than in terms of the masses of women and girls, but also boys and men, whose lives are destroyed each year by sexual violence perpetrated in conflict”

Mr. Ban Ki-moon
United Nations Secretary-General

Introduction.

In contemporary conflict, characterized by an increased civilian-combatant interface, Conflict-related Sexual Violence (CRSV) is not only a side-effect but a frontline consideration. Civilians are not only random, incidental victims of conflict, but frequently the targets of it. Women and children are frequently the focus of armed violence - waged for the control of populations, as much as territory. In the last decades there has been an increase of reporting on the use of CRSV as a tactic of war. CRSV in armed conflict and post-conflict situations disproportionately affects women and girls, as well as groups (including Lesbian, Gay Bisexual and Transgender [LGBT]) that are particularly vulnerable or may be specifically targeted. It also affects men and boys as well as family and community members who are forced witnesses of CRSV against family and community members. The acts of CRSV in situations of armed conflict severely impede:

- a. The full enjoyment of Women's and girl's rights;
- b. The critical contributions of women to society;
- c. Durable peace and security; and,
- d. Sustainable development.

Through resolution 1820 (2008), the Security Council determined that sexual violence ‘when used or commissioned as a tactic of war in order to deliberately target civilians, or as part of a widespread or systematic attack against civilian populations’ can significantly exacerbate and prolong situations of armed conflict and may impede the restoration of international peace and security. Sexual violence as a ‘tactic of war’ refers to acts of sexual violence that are linked with military/political objectives and that serve (or intend to serve) a strategic aim related to the conflict. This will rarely be reflected in overt orders, but may be evidenced by the fact that an armed group has a functioning chain of command and is able to restrain other offences (like mutiny or desertion), while sexual violence is neither condemned nor punished by the military hierarchy. It may also be apparent that sexual violence is in line with the overall objectives of the group. In this regard, addressing CRSV will necessitate a security, justice and service response with varying levels of involvement by security and justice entities as well as service providers.

CRSV is no longer seen as an inevitable by-product of war, but can also constitute a crime that is preventable and punishable under International Human Rights Law (IHRL), International Humanitarian Law (IHL) and International Criminal Law (ICL). Civilians account for the vast majority of those adversely affected by armed conflict. Women and girls are particularly targeted by parties in the conflict and subjected to sexual violence, including as a tactic of war to humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group. Such violations may in some instances persist after the cessation of hostilities.

Men and women experience conflict differently and can have different perceptions on how to build peace. Understanding the various roles, responsibilities and experiences of women and men, in conflict and post-conflict situations is critical to peacekeeping. A foundation for all gender-sensitive activities is active interaction with local women and men, who can provide information on security threats and vulnerabilities facing them. By taking into consideration the differences in threats and vulnerabilities experienced by men and women, tasks and actions of the Military Component can be made gender-sensitive.



Women play an important role in the prevention and resolution of conflicts and in peacebuilding. Women's equal and meaningful participation as well as full involvement in decision-making processes is essential for the maintenance and promotion of peace and security. However, there are persistent obstacles and challenges to women's participation as a result of violence, intimidation and discrimination, as well as other stereo types; which erode women's capacity and legitimacy to participate in post-conflict public life. Women as a symbol of resilience and part of the sustainable solution can play a vital role as peacemakers and peacebuilders; and also support reconciliation and recovery efforts that cumulatively contribute to enhanced social security.

Aim.

To provide an overview of the relevance, challenges and organisational response to Conflict-Related Sexual Violence from a strategic perspective.

Learning Outcomes.

The learning outcomes set for the strategic level module include the following:

- a. Comprehend the threats of CRSV and imperatives for collective response.
- b. Understand the UN definition of CRSV and its differences with related terms.
- c. Understand ground realities, patterns, motives, targets and perpetrators of CRSV.
- d. Understand the legal dimensions and implications.
- e. Understand the strategic framework and approaches adopted by the UN to address CRSV.
- f. Understand the operational parameters within which responses are to be initiated.

Scope.

The strategic level module is designed to predominantly sensitise and enhance awareness of the Troop Contributing Countries (TCC), Field Missions, and at UN Headquarters (HQ) on prevention and response to CRSV. In addition, the module can also be used by the Police and Civilian personnel. The module provides the following:

- a. Part I : Conflict-Related Sexual Violence: An Overview.
- b. Part II : CRSV - Realities, Patterns, Potential Victims, Perpetrators and Motives
- c. Part III : Conflict-Related Sexual Violence: Legal Aspects.
- d. Part IV : Conflict-Related Sexual Violence: Strategic Approach.
- e. Part V : Role and Responsibilities of Member States and Regional/Sub-Regional Organisations.

Part I: Conflict Related Sexual Violence: An Overview (Background, Mandate, Definitions, Principles, Linkages and Differences)

Background.

CRSV is an extension of institutionalized and widespread societal discrimination against women that predates the outbreak of conflict. The continuum of violence and discrimination women face during times of peace is further exacerbated by conflict. In many cultures, social, political and religious norms identify women and girls as the property of men and/or as sexual objects. Violence directed at women is often considered as an attack against the "values" or "honour" of a society and is therefore a particularly potent tool of war. Punishing or dehumanizing women and girls are likely to have a devastating effect on the entire community to which they belong. Even after the formal end of a conflict and the deployment of UN peacekeepers, women and girls remain targets for violence, and physical and economic insecurity continue to characterize their lives. Often, it is exacerbated when the perpetrators and victims are living in the same community, where the 'Rule of Law' is ineffective/defunct and the community restraining mechanisms are non-existent. The climate of impunity that exists in most post-conflict contexts allows gender-based violence to flourish. When perpetrators are not held responsible, sexual violence is likely to de-generate into a widespread or systematic crime. Political will at all levels is essential to end the vicious cycle of impunity.



Note:

- CRSV Profile of Central African Republic (CAR)ⁱ and Democratic Republic of Congo (DRC)ⁱⁱ are amplified in the End Notes as examples.
- CRSV remains problematic in many countries where peacekeeping operations are deployed.

CRSV Mandate.

At the strategic level, it is important to understand the linkages between sexual violence and the restoration of peace and security, and support it by clear, achievable and sufficiently robust mandates. In assessing the nature of a peacekeeping operation and the capabilities required to implement its mandate, TCCs should be guided by the tasks outlined in the resolution, the accompanying ROEs, and other directives pertaining to the use of force, which provide accurate and useful guidance. At the same time, all actors involved in peacekeeping should be aware that any UN presence comes with obligations and creates certain expectations among the host population and the wider international community. Combating CRSV and protecting human rights is a primary responsibility of the host State. UN peacekeeping missions support the host State in prevention and response to CRSV and additionally take effective measures to combat CRSV when and where state authorities are weak, inadequate or non-existent.

The language of the PoC mandates may vary slightly between SCR; the following phrases are common to all or most of such mandates:

The Security Council,.. Acting under Chapter VII of the Charter of the United Nations, Decides that [the peacekeeping mission] is authorized to take the necessary action [or ‘use all necessary means’], in the areas of deployment of its forces and as it deems within its capabilities, and without prejudice to the responsibility of the Government/host country, to protect civilians [or ‘ensure the protection of civilians’] under imminent threat of physical violence.

Explanatory notes on key elements of PoC mandate, inter alia, ‘**necessary action**’, ‘**physical violence**’; ‘**imminent threat**’ is at ‘**Annex A**’ (p. 22).

The UN Security Council has specifically mandated UN peacekeeping operations (e.g. MINUSCA, MINUSMA, MONUSCO, UNAMID, UNMISS and UNOCI) to address CRSV; linking protection of civilians (PoC) to also include all forms of sexual violence. These mandates specifically highlight, for e.g.:

- a. Provision of specific protection for women and children affected by armed conflict including through the deployment of Child Protection Advisors and Women’s Protection Advisors (WPA);
- b. Monitoring, help investigating, reporting and preventing on violations and abuses committed against children as well as violations committed against women, including all forms of sexual violence in armed conflict; and,
- c. Contribute to efforts to identify and prosecute perpetrators.

Preventing CRSV is also core to the human rights mandate. In coordination with gender, justice and other components as appropriate, the human rights component shall contribute to – inter alia – analysis of sexual and gender-based violence; devise effective strategies to prevent and respond to sexual and gender-based violence; support the establishment or implementation of laws, policies, institutions and practices which safeguard the equal rights of women and girls and protect all individuals against sexual and gender-based crimes in accordance with legally binding human rights treaties; and ensure accountability for violations and remedy for victims.¹

¹ OHCHR/DPKO/DPA/DFS Policy on Human Rights in Peacekeeping Operations and Political Missions (2011), para. 50.



Note:

- Extracts from PoC mandates issued vide SCR 1925 (2010) concerning the situation in the DRCⁱⁱⁱ and SCR 2149 (2014) concerning the situation in CAR^{iv} is appended as End Notes.
- Combating CRSV and protecting human rights is a host State responsibility.
- UN peacekeeping missions support the host State in prevention and response to CRSV and additionally take effective measures to combat CRSV when and where state authorities are weak, inadequate or non-existent.

Definitions and Concepts.

Definition of Conflict-Related Sexual Violence². According to UN Action Against Sexual Violence, “CRSV refers to incidents or (for SCR 1960 listing purposes) patterns of sexual violence, that is rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity³, against women, men, girls or boys”. Such incidents or patterns occur in conflict or post-conflict settings or other situations of concern⁴ (e.g., political strife). Refer ‘Annex B’ (p. 23) for definitions of rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence.

They also have a direct or indirect nexus with the conflict or political strife itself, i.e. a temporal, geographical and/or causal link^v. In addition to the international character of the suspected crimes (that can, depending on the circumstances, constitute war crimes, crimes against humanity, acts of torture or genocide), the link with conflict may be evident in the profile and motivations of the perpetrator(s), the profile of the victim(s), the climate of impunity/weakened State capacity, cross-border dimensions and/or the fact that it violates the terms of a ceasefire agreement.

Other Related Terms/Definitions. Refer ‘Annex C’ (p.24) for Sexual Violence, Sexual and Gender Based Violence/Gender Based Violence (SGBV/GBV), Sexual Exploitation and Abuse (SEA), Harmful Practices, and Survival Sex.

Linkages of CRSV with Other Frameworks.

Women, Peace and Security (WPS).

The WPS agenda emphasises the empowerment, participation and protection of women as well as gender equality in a comprehensive and holistic manner contributing to the prevention and eradication of CRSV. Gender inequality and discrimination perpetrated at the social, political, economic, legal and cultural spheres prior to, during and in post conflict situations contributes to the use of sexual violence against women and girls and fosters a climate of impunity. Combating CRSV within the framework of WPS supported by SCR 1820, 1888, 1960 and 2106 is closely linked to the Protection of Civilians (PoC), Security/Defence Sector Reform (SSR/DSR), Disarmament, Demobilisation and Reintegration (DDR), Rule of Law (ROL) including Justice Sector Reforms, and peace processes etc. The WPS agenda is composed of two pillars: Gender equality and CRSV. Whilst Gender equality addresses discrimination, participation, and empowerment in the socio-politico-economic spheres; CRSV primarily focuses on protection from all forms of sexual violence. Both pillars work in consonance with each other (not mutually exclusive) to eradicate CRSV. All actions undertaken to address CRSV must be gender sensitive and promote the principles of gender equality and equal participation of women.

² ‘Analytical Framing of Conflict-related Sexual Violence’ United Nations Action Against Sexual Violence in Conflict.

³ E.g. sexual mutilation, emasculation and branding, forced marriage/abortion/incest, etc.

⁴ Situations of political unrest, including pre and post-electoral violence as witnessed in Kenya, Guinea and Côte d’Ivoire., where reports suggest that sexual violence was used to serve political ends and to target opponents, are relevant even when they do not reach the threshold of armed conflict. These can be considered ‘other situations of concern’ in the sense of the UN Charter. Sexual violence as part of the repertoire of political repression also warrants analysis from the perspective of early-warning and prevention.



Protection of Civilians (PoC).

Combating CRSV is also closely linked to the protection of civilians mandate with an emphasis on specific protection of women and children from all forms of sexual and gender-based violence; while the broader aspects of political engagement for eliciting commitments, advocacy, country-level initiatives and multi-sectoral assistance, assistance to the survivors, etc. as well as addressing CRSV through the SSR, DDR, Justice Sector, etc. falls within the framework of WPS.

Child Protection (CP).

A significant portion of CRSV victims are children; mainly girls. Boys are also targeted, including as children associated to armed forces or armed groups.

Human Rights.

CRSV is a serious violation of international law including human rights law. The State is obliged to promote the rights of women, girls, boys and men, protect their rights when threatened, and ensure justice, effective remedies and reparations for human rights violations, including for incidents of sexual violence. The UN supports the States to assume these obligations and empowers right-holders to claim their rights. UN Peacekeepers are expected advance human rights through their functions, including by ensuring that CRSV crimes are treated with the utmost consideration at all times.

Part II: CRSV - Context, Patterns, Potential Victims, Perpetrators and Motives

Overview.

The use of CRSV is extremely powerful and destructive; and can take many violent and torturous forms. In a conflict or post-conflict setting, sexual violence may be committed either as opportunistic or pre-planned manner, while the magnitude and brutality may vary in both the cases. It is important to know the context and realities on ground, which civilians are vulnerable to specific threats and why; who is threatening them and why; how they are threatening and what are their capabilities to carry out the threat.

Context in Which CRSV Occurs.

CRSV is under-reported by victims/survivors and their family members; and are under-responded by the communities as well as national law and order machinery. Some of the realities on ground are:

- a. Gender inequality and discrimination prior to the conflict will exacerbate the use of CRSV during the conflict; hence CRSV disproportionately affects women and girls, even though men and boys are also targeted. Gender discrimination, inequality and lack of respect for women's rights must therefore be addressed to comprehensively tackle CRSV;
- b. CRSV may be widespread, endemic and invisible and its extent is difficult to ascertain, thereby making prevention efforts extremely challenging. UN peacekeepers must however presume the presence of CRSV in areas of deployment in order to take credible and comprehensive measures to identify and address it;
- c. CRSV can have serious and long term consequences on survivors, which include *inter alia*, physical injuries to the reproductive and urinary tract systems, pregnancy, sexually transmitted diseases including HIV, mental trauma, death (in certain cases) and marginalization including physical ostracization and banishment;
- d. In many instances, the children born of rape are rejected by the mother/family/community, leading to deprivation and destitution;
- e. Cases remain unreported/under-reported (lack of reports of CRSV does not mean a lack of incidents) due to poor security and/or a lack of trust in the rule of law, and cultural barriers resulting in shame, stigma, and fear, as well as limited services. All these factors contribute to a culture of impunity;
- f. State authorities and institutions are commonly non-existent or dysfunctional contributing to a culture of impunity for incidents of CRSV, lawlessness, debilitating moral standards, impunity and inadequate responses. Lack of repercussions for incidents of CRSV can fuel a culture of 'Sexual Predation';



- g. Social welfare mechanisms, health infrastructure, security and law enforcement agencies, justice and correction systems may be inadequate or non-existent, and unreceptive (when people in authority themselves are the perpetrators) creating obstacles in securing justice;
- h. Weak or non-existing health infrastructure in most conflict and post-conflict areas prevent/restrict the access of victims to medical services, which are urgently required given the prevalence of sexually transmitted diseases among many CRSV perpetrators; and,
- i. Victims of CRSV also face enormous obstacles in accessing justice, either through established courts and judicial structures or more informal, community-based mechanisms. In the light of inadequate or unreceptive law enforcement agencies, many women are reluctant to file complaints against their attackers.

Potential Victims of CRSV.

Broadly, potential victims of CRSV may be categorised as:

- a. Rival socio-ethnic-religious individuals/groups/communities and associated people.
- b. Other groups (disabled, elderly, orphans, detained persons, IDPs, refugees⁵, LGBT, etc.).

Trends and Patterns. CRSV is usually committed as part of/during:

- a. Targeted attacks against community settlements (houses/hamlets/villages/towns/hospitals/schools);
- b. Attack on religious/cultural institutions/monuments impacting inmates and surrounding population;
- c. Attack on IDP sites/refugee camps or protection sites/safe havens;
- d. Waylaying of women and girls during routine survival/economic activities; e.g. farming, routes to markets, seeking water and firewood;
- e. House to house searches and looting;
- f. During abduction/kidnapping/hostage taking;
- g. Predatory attacks/practices;
- h. Increased vulnerabilities (during political strife, displacements, etc.);
- i. Forcible obtaining of logistical support (carry weapons/warlike stores/forced labour, etc.);
- j. Abduction/forced recruitment of boys and girls;
- k. Punitive strikes/retribution against rival communities/groups;
- l. Scorched Earth Policy (in the wake of withdrawal/vacation and prior to the arrival of opposing armed group, National security forces or UN forces);
- m. DDR processes;
- n. In detention as a form of torture and intimidation; and,
- o. Extensive use of sexual violence by violent extremist groups as part of their strategic objectives.

Perpetrators.

Both State and non-State actors have been identified as perpetrators of CRSV. Perpetrators primarily include,

- a. State actors; such as civil/military/police/gendarme officials/entities; and,
- b. Non-State actors; such as armed actors/groups, militias, organised criminal networks, former combatants, young men brutalised by conflict etc.

Note:

- Engagement with each category requires gender sensitivity, as well as specific and tailor-made approaches, instruments and responses.

⁵

The situations where refugees are most vulnerable to acts of sexual violence are prior to flight, during flight, during repatriation operations and during reintegration phases. Refugees identified to be most at risk of being subjected to sexual violence are unaccompanied women, lone female heads of household, unaccompanied children, children in foster care arrangements, those in detention or detention-like situations. Men, women and children in the above situations may be targeted for abuse by the government, the police, the military or other officials in the country of origin as also by the country of asylum (Chapter-1, Paragraph 1.2 of UNHCR Guidelines on Preventing and Responding to Sexual Violence Against Refugees).



Motives for CRSV in Conflict or Post-Conflict Situations.

The motives regarding the use of CRSV will be different from one mission's operational environment to another, from region to region, and perpetrator to perpetrator. Principal motives for committing CRSV include:

- a. Control of a population (through terrorising/intimidation); territory (vital terrain, cities, trade routes, etc. including through forced displacement) and natural resources (mining areas, natural resources, etc.);
- b. Deliberate targeting of ethnic/religious communities such as through political repression, sectarian violence, ethnic cleansing, dehumanisation, change ethnic/religious makeup of community/prevent further growth, spread HIV etc.); and,
- c. Humiliate men and women (in the presence of family members or community) through rape and incest.

Guiding Documents.

The surge in peacekeeping over the past decade has brought to light the scope and nature of sexual violence committed against women and girls, and also on men and boys. The following resolutions and guidance documents lay foundation to organisational approach to address CRSV:

- a. The Security Council Resolutions (SCR) 1325 (2000), 1889 (2009) and 2122 (2013) on Women, Peace and Security (WPS); SCRs 1612 (2005) and 1882 (2009) on Children and Armed Conflict; and SCRs 1674 (2006) and 1894 (2009) on the Protection of Civilians in Armed Conflict) provides the basic guidelines on matters related to women and girls;
- b. SCR 1820 (2008), 1888 (2009), 1960 (2010) and 2106 (2013) articulates the link between sexual violence and the restoration of peace and security (for key provisions of these Security Council Resolutions, refer to '[Annex D](#)' [p.26]);
- c. The Secretary-General's Policy Committee Decision No. 2010/30;
- d. The DPKO-DFS Policy (Mainstreaming and Implementing the CRSV Mandate by UNPKOs);
- e. OHCHR/DPKO/DPA/DFS Policy on Human Rights in Peacekeeping Operations and Political Missions (2011);
- f. The DPKO-DFS Guidelines on CRSV;
- g. The Analytical Inventory of Peacekeeping Practice, 2010; and,
- h. Early-warning Indicators Matrix.

Together they provide an ambitious platform for confronting a present-day emergency affecting millions of women and children; which requires security actors, including military peacekeepers, to respond to sexual violence with as much determination as they would to any other atrocity, and with specifically designed tasks and tactics to deal with the specific nature and consequences of this type of violence.

Part III: Conflict Related Sexual Violence: Legal Aspects

Overview.

Sexual Violence in conflict and post-conflict situations is a gross violation of International Human Rights Law (IHRL), and may amount to a violation of International Humanitarian Law (IHL) and a serious crime. It is also a crime in most national legal systems. Under its Resolution 1960 (2010), the Security Council has reiterated the necessity of all State and non-State parties to conflict to comply with their obligations under applicable international law, including the prohibition of all forms of sexual violence and stressed the need for civilian and military leaders to demonstrate commitment to prevent sexual violence, to combat impunity and enforce accountability.

The Security Council has underscored these obligations in its subsequent resolutions including resolutions 1998 (2011) and 2068 (2012) in the particular context of children in armed conflict. In its latest resolution 2106 (2013) on sexual violence in conflict, the Security Council noted with concern that sexual violence in armed conflict and post-conflict situations disproportionately affects women and girls, as well as groups that are particularly vulnerable or may be specifically targeted, while also affecting men and boys and those secondarily traumatized as forced witnesses of sexual violence



against family members. It was further emphasized that acts of sexual violence in such situations not only severely impede the critical contributions of women to society, but also impede durable peace and security as well as sustainable development. With the above background in view, the important legal aspects pertaining to CRSV are discussed below.

CRSV as Violation of International Human Rights Law.

States are responsible under international human rights law to guarantee the protection and promotion of human rights and fundamental freedoms at all times, in war and peace alike. They are bound by provisions of international human rights treaties to which they are parties. They are also bound by the rules of international human rights law which have attained customary status in international law which include many if not all of the rights set out in the Universal Declaration of Human Rights. Sexual violence is a violation of universally recognized human rights in addition to being crimes under national laws. Human rights obligations, in particular those emanating from peremptory international law (*jus cogens*) bind States in times of peace and during armed conflict, and armed groups are also expected to respect those obligations. Under International human rights law, States, armed groups and others are expected to respect the right of persons not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, and the right to security of person. As such, acts of rape, other CRSV, and sexual and other forms of slavery, constitute gross violation of human rights law. Under the due diligence obligation, States have a duty to take positive action to prevent and protect women from violence, punish perpetrators of violent acts and compensate victims of violence.

Sexual violence includes acts of a sexual nature which are perpetrated against a person without his or her consent, often by force or coercion. These acts constitute a human rights violation if:

- a. Sexual violence is committed by a public official, or at the instigation of with the consent or acquiescence of a public official; or
- b. The State fails to ensure that sexual violence is effectively investigated and that, where there is sufficient evidence for prosecution, perpetrators are prosecuted and punished in accordance with the gravity of the offence, whether they are State or non-State actors.
- c. The State fails to exercise due diligence to adequately protect persons from sexual violence by non-State actors, among other things by criminalizing all forms of sexual violence, by establishing mechanisms for investigation and prosecution, and implementing comprehensive awareness-raising programs.

Sexual Violence as a Form of Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment.

For the purpose of the 1984 Convention against Torture, the term “torture” is defined 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”⁶. Sexual violence at the instigation of a public official, or otherwise attributable to the State, may amount to torture. It can be part of crimes against humanity when inflicted upon a person in the custody or under the control of the accused; and a violation of IHRL when it involves a public official, either directly or indirectly (i.e. if acts are committed at the instigation or with the consent or acquiescence of a public official).

⁶ Article 1 of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.



CRSV as Violation of International Humanitarian Law.

International Humanitarian Law (IHL) applies in situations of armed conflict and governs the conduct of parties to an armed conflict. IHL establishes binding rules on how conflicts, including non-international armed conflicts, are conducted and how persons who do not, or who no longer, take a direct part in hostilities must be treated.

There is no definition of ‘armed conflict’ in the IHL treaties, however there are two forms: “international armed conflict”, and “non-international armed conflict”. An international armed conflict takes place between two or more States, and covers situations of occupation. It is generally understood that no specific level of intensity in hostilities between the States concerned is required for an international armed conflict to occur. Non-international armed conflict takes place between a government force and an armed group, or between two or more armed groups and normally exists when there is certain level of intensity in the hostilities between the parties to the extent that the situation is no longer a disorganized unrest, such as a riot or demonstration, but is in the nature of a military confrontation between two or more parties that are clearly identifiable, and organized, as collective entities.

The most fundamental principles include that civilians must be protected at all times. Parties to the conflict are required at all times to distinguish between civilians and armed elements. Civilians and civilian objects must not be the target of attacks. IHL continues to bind each party to the conflict, regardless of whether any other party is failing to comply. Each party to the conflict, including armed opposition groups, must also ensure respect for IHL, in particular by its armed forces and other persons or groups acting on its instructions, or under its effective direction or control.

IHL specifically prohibits rape, enforced prostitution, and other forms of sexual violence or indecent assault on civilians, and more generally, prohibits outrages upon personal dignity, including humiliating and degrading treatment. Sexual violence encompasses rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and any other form of sexual violence of comparable gravity, which may include indecent assault, trafficking, inappropriate medical examinations and strip searches.

Sexual Violence as International Crimes.

The statutes of the International Criminal Tribunals for the Former Yugoslavia and Rwanda, the Special Court for Sierra Leone, the Extraordinary Chambers in the Courts of Cambodia, and the Rome Statute for the International Criminal Court (ICC) criminalize sexual violence, namely: rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and any other form of sexual violence of comparable gravity, which may include indecent assault, trafficking, inappropriate medical examinations and strip searches. In fact, SCR 2106 (2013) has recalled the inclusion of a range of sexual violence offences in the Rome Statute of the International Criminal Court (ICC) and the statutes of the ad hoc international criminal tribunals.

Rape and other sexual violence may constitute international crimes, such as the following:

- a. **Sexual Violence as a War Crime**⁷. Acts of sexual violence may constitute war crimes if, among other things, committed in the context of and associated with an armed conflict; when the victims were protected persons (international armed conflict) or were taking no direct part in hostilities (non-international armed conflict); and the perpetrator was aware of the factual circumstances that established the situation as one of armed conflict. Rome Statute of the ICC mentions many of such acts of sexual violence as war crimes.
- b. **Sexual Violence as a Crime against Humanity**⁸. Crimes against humanity include any of the following acts when committed as part of a widespread or systematic attack directed against a civilian population, with the perpetrator’s knowledge that such conduct was part of the attack: rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other

⁷ Article 8 (2) (b) (xxi & xxii) and (e) (vi) of Rome Statute of the ICC.

⁸ Rome Statute: Article 7.



form of sexual violence of comparable gravity⁹. Sexual violence may reach the scale of a crime against humanity if it is part either of a government policy or a wide practice of atrocities tolerated or condoned by a government, de facto authority or organized armed group. Crimes against humanity do not require a connection with armed conflict. This is significant as sexual violence may increase during the unrest that presages conflict, and its scale and severity often continue post-conflict.

- c. **Sexual Violence as an Element of Genocide**¹⁰. The term “genocide” means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as:
- i. Killing members of the group;
 - ii. Causing serious bodily or mental harm to members of the group;
 - iii. Deliberately inflicting on the group conditions of life calculated to bring about its destruction in whole or in part;
 - iv. Imposing measures intended to prevent births within the group; and/or,
 - v. Forcibly transferring children of the group to another group¹¹.

Sexual violence is a constituent element of the crime of genocide. Rape, forced pregnancy and enforced sterilization may constitute an element of genocide.

International law requires holding personally accountable, perpetrators of international crimes, including military commanders, their subordinates, as well as civilian officials who order the commission of such crimes. A military commander can be held responsible for crimes committed by forces under his effective command and control, or for failing to exercise control properly over such forces, where:

- a. The commander knew or, owing to the circumstances at the time, should have known that the forces were committing, or about to commit such crimes; and
- b. The commander failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission, or to submit the matter to the competent authorities for investigation and prosecution.

On the same basis, a civilian superior who knew or consciously disregarded information which clearly indicated that subordinates within his/her effective responsibility and control were committing crimes will incur criminal responsibility if the civilian superior fails to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution¹¹. Some of the international legal provisions concerning CRSV are attached at ‘Annex E’ (p. 29).

CRSV: A Threat to International Peace and Security.

As the Security Council has noted, sexual violence can constitute a war crime, a crime against humanity or a constitutive act of genocide¹². The Council has also recognised that sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security¹³. The inclusion of sexual violence within ICC jurisdiction reinforces this link, as the ICC is concerned with crimes that ‘threaten the peace, security and well-being of the world’. When sexual violence is considered as part of a threat to international peace and security, it would no longer remain a matter which essentially falls within the domestic jurisdiction of a State.

⁹ Article 7 (1) (g) & Article 7 (2) (f) of Rome Statute of ICC.

¹⁰ Article II of Convention on the Prevention and Punishment of the Crime of Genocide & Article 6 of Rome Statute of the ICC.

¹¹ See Article 28, Rome Statute of the ICC.

¹² SCR 1820 (2008), Para-4 (Page 3).

¹³ SCR 1820 (2008), Para-1 (Page 2).



CRSV as Crimes Under Domestic Law.

States bear the primary responsibility to respect, protect and fulfil the human rights of all persons within their territory and subject to their jurisdiction as provided for by international law¹⁴. The rights to life and physical integrity are guaranteed under almost all the constitutions round the world and are protected by the respective criminal laws as well. National criminal law provisions, among other serious offences, prohibit acts of rape and other sexual offences. Additionally, the laws of many countries provide for the discipline of military personnel by establishing a system of military justice for both criminal and disciplinary offences. Sexual offences often form part thereof.

Accountability.

Accountability is necessary to address violations of international human rights and humanitarian law (which includes sexual violence) and for re-establishing the necessary foundation for a society to move forward. For that reason, international law imposes an affirmative obligation on States to provide effective accountability measures to redress violations of international human rights and humanitarian law. As far as international humanitarian law is concerned, the obligation to make full reparation for the loss or injury caused as a result of violations of international humanitarian law, and the obligation to investigate war crimes over which States have jurisdiction and, if appropriate, prosecute the suspects, are now considered established in customary international law and are, therefore, binding on all states¹⁵.

Accountability may include:

- a. The obligation to investigate allegations of violations of international human rights and humanitarian law and, if appropriate, to prosecute and punish those found to be responsible, and provide appropriate reparation. Competent, timely, effective, independent, and impartial investigations are critical to reducing impunity;
- b. The corresponding right of victims and of society at large to the truth about the circumstances of violations (CRSV), including the identity of perpetrators and instigators. Accountability processes must therefore be transparent and the outcome should be published in order to fulfil this requirement; and
- c. The right of victims to access effective remedies, including reparation¹⁶. Reparation goes beyond monetary compensation. It can also be provided through ‘restitution’ (restoring the victim to the original situation before the violation occurred; e.g. return of property, restoration of liberty); ‘rehabilitation’ (provision of medical, psychological, social and legal services); ‘satisfaction’ (range of measures including cessation of violations, truth seeking, public apologies etc.); and ‘guarantees’ of non-repetition (may include institutional reforms etc.). Reparations for survivors for sexual violence must be designed in a manner that gives full consideration to the distinct nature of the crime of sexual violence.

If soldiers and other state security officials are involved, depending on the rules and regulations that govern them, there may be an obligation to immediately suspend those under investigation from their duties and to permanently remove those found to have participated in serious violations from the security forces or, in the case of armed groups, bar them from entering such forces. Accountability may also include institutional reforms and memorialization. Full accountability is typically considered as an official and social repudiation of what happened.

Additionally, as far as the United Nations is concerned, the *Human Rights Due Diligence Policy* (HRDDP) on United Nations Support to non-United Nations Security Forces must be used as a tool to ensure compliance with international humanitarian, human rights and refugee law by forces supported by the United Nations, including addressing sexual violence in armed conflict and post-conflict situations.

¹⁴ SCR 2106 (2013), Page 2.

¹⁵ See Rule 158, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

¹⁶ See Article 8, Universal Declaration of Human Rights.



In resolution 1820 (2008) the Security Council stressed “the need for the exclusion of sexual violence crimes from amnesty provisions in the context of conflict resolution processes”, and called upon the Member States “to comply with their obligations for prosecuting persons responsible for such acts, to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice”. It further stressed “the importance of ending impunity for such acts as part of a comprehensive approach to seeking sustainable peace, justice, truth, and national reconciliation”¹⁷.

Consistent and prompt prosecution of sexual violence crimes is essential to address the growing menace. UN peacekeepers and partners must act towards addressing impunity and upholding accountability. The fight against impunity for the most serious crimes of international concern committed against women and girls has been strengthened through the work of the ICC, the ad-hoc UN tribunals, as well as specialized chambers in national tribunals. United Nations Commissions of Inquiry in armed conflict and post-conflict situations have, where necessary, (offered) sexual and gender-based crimes expertise to accurately document such crimes. Politically, there has been added impetus by national authorities to reinforce the fight against impunity through the development of national frameworks and action plans to ensure a structured and institutionalised response to CRSV.

The focus of international criminal justice and mixed tribunals on combating acts of sexual violence, including rape, in the context of crimes against humanity, war crimes and genocide, has been commendable. However, the primary responsibility in this regard falls on the Member States who are responsible to end impunity and obliged to prosecute those responsible for such crimes perpetrated against civilians. In many conflict ridden/ affected countries, an obstacle to obtaining accountability for sexual violence crimes include, prevalence of cultural norms that make it difficult for victims to report, and testify in respect of acts of sexual violence. Powerful social stigmas may discourage victims to seek appropriate redress. Although criminal justice systems may provide guidance and encourage victims of SGBV to file complaints, protect healthcare workers providing assistance to victims of SGBV, and recommend expeditious assistance to victims, the negative effects of socio-cultural stigmatization associated with rape remains a challenge that deters many victims of such offences from seeking redress.

National Forums/special chambers remain the principal venue for holding individuals accountable for crimes of sexual violence and continue to fight impunity. Crimes of sexual violence should be incorporated at the outset into the investigation and prosecution strategy. Rigorous documentation of sexual violence crimes and mechanisms for recognition of and reparations for victims of sexual violence, as well as the effective prosecution of perpetrators of crimes of sexual violence is important to apportion accountability. Reparations (including restitution, compensation, satisfaction and rehabilitation) and guarantees of non-repetition are measures that aim to repair or redress the impact of crimes committed against individuals.

Despite concerted efforts to ensure cessation of violence against women and children (including sexual violence) in situations of armed conflict, such acts continue to occur, and in some situations have become systematic and widespread, reaching appalling levels of brutality. Even if strongly prohibited by IHRL at all times and by IHL in both international and non-international armed conflicts, enforcement mechanisms are still fragile. Statistics show that only limited numbers of perpetrators of sexual violence have been brought to justice in most of the conflict ridden countries.

The primary responsibility to ensure legal accountability in CRSV cases falls on the Member States i.e. by investigating and prosecuting such acts by those subject to their jurisdiction. The Security Council has encouraged the Member States to include the full range of crimes of sexual violence in their national penal legislation to enable prosecutions for such acts. The Security Council has recognized that effective investigation and documentation of sexual violence in armed conflict is instrumental both in bringing perpetrators to justice and ensuring access to justice for survivors. In

¹⁷ SCR 1820 (2008), Paragraph-4 (Page 3).



addition the Council also recognizes that consistent and rigorous prosecution of sexual violence crimes, as well as national ownership and responsibility in addressing the root causes of sexual violence in armed conflict, are central to deterrence and prevention; as is challenging the myths that sexual violence in armed conflict is a “cultural phenomenon” or an “inevitable consequence of war” or a lesser crime.

Part IV: Conflict Related Sexual Violence: Strategic Approach

Strategic Approach.

Overview. Given the changing nature of warfare, UN peacekeeping missions are increasingly expected to protect civilians, fight impunity and strengthen national judicial systems. Provided with a robust mandate, peacekeepers can play an important role in protecting civilians from sexual violence during armed conflict. UN Action Against Sexual Violence in Conflict has the primary role in promoting harmonised and coordinated responses of relevant peacekeeping, humanitarian, human rights, political and security actors. Enhanced coordination, information sharing, analysis, response planning and implementation across these sectors are imperative for success. UN Military efforts contribute to building trust and confidence among the civilian population and improving situational awareness, thereby advancing broader mission objectives.

Framework at UN Headquarters. Combating CRSV requires a holistic and comprehensive approach involving many actors and multiple instruments including the UN, the international community, the host State and the parties to the conflict. At the UNHQ level, following entities support implementation of CRSV mandate:

- a. A ‘*Special Representative of Secretary General on Sexual Violence in Conflict*’ (SRSG-SVC), appointed by the Security Council provides political direction to the mandate and strengthens coordination;
- b. A *Team of Experts* mandated by the Council provides legal and judicial expertise on combatting CRSV upon invitation by governments;
- c. *UN Action Against Sexual Violence in Conflict* develops a homogenous approach towards addressing CRSV within its network of 13 UN entities;
- d. The *Office of the High Commissioner for Human Rights* (OHCHR) works to ensure that laws, institutions and policies are in place to prevent and respond to conflict-related sexual violence; and,
- e. The *Department of Peacekeeping Operations* (DPKO) operationalizes the resolutions and addresses prevention and response to CRSV from a political, peace and security perspective.

Mandated Measures.

Collectively, the UN has instituted the following measures to streamline efforts to counter CRSV in conflict and post-conflict settings:

- a. **Addressing CRSV Concerns in Peace Process.** Addressing CRSV concerns from the outset of peace processes, whenever relevant, in mediation efforts, ceasefires and peace agreements, in particular in the areas of pre-ceasefires, humanitarian access and human rights agreements, ceasefires and ceasefire monitoring, DDR and Security Sector reform (SSR) arrangements, vetting of armed and security forces, justice, reparations, and recovery/development (including its reflection in specific provisions of peace agreements, security arrangements and transitional justice mechanisms).
- b. **Empowerment and Participation of Women.**
 - i. Promoting women’s (including women’s organizations and networks) political, social and economic empowerment, gender equality and the enlistment of men and boys in the effort to combat all forms of violence against women, being central to long-term efforts to prevent sexual violence in armed conflict and post-conflict situations.
 - ii. Promoting women’s participation in all aspects of mediation, post-conflict recovery and peacebuilding and to address sexual violence in conflict, including, inter alia, in the establishment and review of peacekeeping and political mandates, public statements,



- country visits, fact-finding missions, establishment of international commissions of inquiry, consultations with regional bodies and in the work of relevant Security Council sanctions committees.
- c. **Eliciting and Monitoring Implementation of Commitments**. The Special Representative of the Secretary-General (SRSG) on Sexual Violence in Conflict (SVC) and other senior UN officials will engage in dialogue with all parties to armed conflict to elicit time-bound commitments to cease all acts of sexual violence and to protect civilians in compliance with international law. In the context of securing these commitments, UN officials will remind the parties that in resolution 1820 the Security Council has explicitly excluded sexual violence crimes from any future amnesty provisions. Senior UN officials at country level will follow up and, where feasible, monitor implementation of such commitments in the context of broader conflict resolution efforts. Such commitments will include at a minimum:
- i. Issuance of clear orders through chains of command prohibiting sexual violence and accountability for breaching these orders;
 - ii. The prohibition of sexual violence in Codes of Conduct, military and police field manuals or equivalent;
 - iii. Timely investigation of alleged incidents;
 - iv. All relevant parties to armed conflict shall cooperate in the framework of such commitments, with appropriate UN mission personnel who monitor their implementation; and,
 - v. Parties to designate, as appropriate, a high-level representative responsible for ensuring implementation of such commitments.
- d. **Listing of Parties/Perpetrators**. Resolution 1960 requests the Secretary-General to list ‘parties credibly suspected of patterns of sexual violence’. The UN is expected to reach out to listed parties in order to elicit commitments and agree on frameworks on addressing CRSV. For listing purposes, isolated offenses should be distinguished from those forming part of a pattern, understood in international law and practice as a methodical plan or system that implicates a collectivity of victims. The aim of this threshold is to prevent a single, isolated incident of sexual violence from giving rise to listing.
- e. **Imposing Sanctions**. Applying targeted and graduated state-specific sanctions regimes by UN Sanctions committees against those who perpetrate and direct CRSV. Missions are required to share information on sexual violence to the UN Security Council Sanctions Committee. This information must be detailed enough in identifying perpetrators and establishing their respective levels of responsibility.
- f. **Monitoring, Analysis and Reporting Arrangements (MARA)**^{vi}. Establishment and implementation of Monitoring, Analysis and Reporting Arrangements on CRSV, including rape in situations of armed conflict and post-conflict and other situations, taking into account the specificity of each country. The MARA should generally focus on sexual violence committed by parties to the conflict, as opposed to isolated violations committed by civilians as a form of criminal activity.
- g. **Early-warning Framework**^{vii}. CRSV has long been impervious to detection and absent from mainstream conflict analysis. Accordingly, UN Action has developed a framework of early-warning signs specific to CRSV. The aim is to integrate this analysis into existing and emerging early-warning and prevention systems to facilitate a rapid response. There is a need to integrate the early-warning and prevention systems at country/Mission level. The UN Country Team (UNCT) and peacekeeping Mission will have to identify early-warning indicators specific to the operating environment and disseminate to various responders.
- h. **Deployment of Appropriate Resources: Women’s Protection Advisers and Gender Advisers**. Deploying Women Protection Advisers (WPA) in accordance with resolution 1888 (2009) to facilitate the implementation of SCR on WPS; as well as Gender Advisers (GA) to ensure mainstreaming of gender perspectives in policies, planning and implementation by all mission elements.
- i. **Training and Capacity Building**. Providing guidelines on comprehensive gender and CRSV training packages for all peacekeeping and civilian personnel.



UN Support to Government and Civil Society to Address CRSV and Strengthen National Ownership.

In furtherance of the strategic measures and to improve collective responses to counter CRSV at the field Mission level, the UNHQ has launched the following key initiatives:

- a. **Comprehensive Strategies.** UN Action provides strategic support to UNCT and Missions to develop comprehensive strategies to combat SV jointly with the host Government. The Team of Experts also provide expertise at the invitation of the host Government to address Rule of Law as regards CRSV. The Strategy is generally structured around the following pillars; combating impunity; prevention and protection; security sector reform (SSR); and multi-sectoral assistance for survivors, with a cross-cutting component on data and mapping.
- b. **Multi-sectoral Approach.** Addressing CRSV underscores the need for a multi-sectoral approach that addresses the widespread impunity feeding this violence, promotes SSR and enhances prevention and protection mechanisms, while also strengthening services for survivors. As part of victim assistance, support host State to increase access to health care, psychosocial support, legal assistance and socio-economic reintegration services for victims of sexual violence.
- c. **Capacity Development.** Support to host State for capacity development within the health, social welfare, justice and security sectors to respond effectively to CRSV. It is a collective responsibility to support the development and strengthening of the capacities of national institutions, in particular of judicial and health systems, and of local civil society networks in order to provide sustainable assistance to victims/survivors.
- d. **Reparations.** Facilitate provision of reparations to victims/survivors of sexual violence.
- e. **Legislative/Judicial Assistance and Legal Reforms.** Provide technical guidance on prosecution, reparation etc. In many post-conflict settings, there is a need to reform not only GBV laws, but also rules of procedure and evidence, to overcome inbuilt biases. This is important, as GBV laws can be non-existent, discriminatory and are not in accordance with International law. Hence, there is a need to increase the capacity and the sensitization of prosecutors and police.
- f. **Capacity Building of Security and Defence Sector.** Training/education/sensitisation of the host security forces (military, police and gendarmes) in prevention of sexual violence, adherence to strict codes of conduct to prevent predatory practices and to promote and protect human rights of all the people. UN police have helped to create specialized national police units that receive and respond to reports of CRSV. This is part of the task of replacing the vicious circle of silence and impunity with a virtuous circle of recognition, justice and reparation. Such units are raised as part of SSR programmes and selected personnel will have to undergo a human rights vetting/screening process.
- g. **Disarmament, Demobilisation and Reintegration (DDR).** DDR programmes must address ex-combatants, women associated with armed groups as well as their families and the perpetrators of CRSV. While the first two will be supported in terms of rehabilitation, debriefing and referral services for reintegration with the receiving communities, the latter will have to go through the judicial process before reintegration.
- h. **Development of Frameworks in addressing CRSV.** Through the lead of the SRSG-SVC the United Nations is engaging political and military leadership with the aim of developing structured framework through which CRSV can be comprehensively addressed by parties to the conflict. There are concerted efforts by the UN, through the OSRSG-SVC, Team of Experts, UN Action, DPKO and UNCT towards providing assistance in the development of Action Plans for armed forces. These Plans lay the basis for a much deeper engagement in addressing CRSV. The Military, Police and Civilian Components of peacekeeping operations have to play a vital role in the implementation of these Plans.

DPKO/DFS Headquarters Approach to Prevention and Response to CRSV.

DPKO/DFS is responsible to operationalize the CRSV mandate in DPKO/DFS led UN peacekeeping operations. The mandate is mainstreamed through the Mission-specific directives/guidance, such as the Mission Concept and directive to the SRSG. The Office of Operations (through Integrated Operational Teams) maintains oversight on the CRSV mandate implementation. The Field Missions



and WPAs are backstopped by the DPKO/DFS Sexual Violence Adviser, placed in the Policy, Evaluation and Training Division (DPET). DPKO/DFS provides the following support to the Field Missions addressing CRSV:

- a. Develops policy, guidance and training on prevention and response to CRSV.
- b. Advises Senior Management and Mission leadership as required.
- c. Mainstreams CRSV mandate at DPKO/DFS HQ (including Office of USG, Office of Operations, Office of Military Affairs, Office of Rule of Law and Security Institutions, Division of Policy, Evaluation and Training, Field Personnel Division etc.) and supports missions in mainstreaming of CRSV concerns.
- d. Promotes human rights and a gender-sensitive approach to implementation of CRSV mandate.
- e. Supports the rostering process and deployment of WPAs through DFS.
- f. Builds capacity of WPAs through workshops and training.
- g. Coordinates/supports implementation of CRSV mandate with SRSG-SVC, UN Action Against SVC and other partners addressing CRSV.
- h. Monitors trends and patterns of CRSV.
- i. Backstops WPAs, missions and provide technical support in CRSV mandate implementation.

Guidance to the UN Military Component.

The DPKO/DFS Head of Military Component (HoMC) directive provides guidance and direction on the organizational and administrative responsibilities of the HoMC. Operational guidance and direction on employment of the military component is provided in the mission-specific military-strategic Concept of Operations (CONOPs). The Statement of Force Requirements (SFR) is a part of CONOPS and based on SFR, Statement of Unit Requirements (SUR) are generated for each unit of the force (which includes the mission, tasks, organization, equipment and personnel details). The CONOPs, ROE, SFR/SURs also reflects human rights assessments on risks and threats (including on CRSV) and be reviewed periodically or after every mandate renewal or following changes in the operational situation. The Force HQ is expected to generate mission-specific Operations Order (OPORD) and associated Fragmentary Orders (FRAGO), specific directives and SOPs for the Military Component.

The Military Capability Study (MCS) is a periodic technical field assessment and/or desk assessment conducted by Military Planning Service of Office of military Affairs, which analyses the current capabilities against current and future anticipated tasks. The assessment of the force and its units covers the configuration, its posture, the ability to function in relation to the operational environment and the ability to plan and execute all types of military operations on a 24/7 basis. The MCS informs the establishment and review of military strategic and operational direction, i.e. CONOPS, including SFR and SUR, ROE, at the UNHQ level and subsequently the Operations Order (OPORD) at the mission level. It is important that the Force HQ/Military Component inform the MCS process on additional requirements/modifications required in approaches or in force generation to enhance capabilities for PoC/CRSV mandate implementation.

It is essential that the mandates, directives, orders and other guidance documents explicitly state the requirements of addressing CRSV where applicable and ensure that lower-level commanders receive unambiguous directives that there are no “rape cultures”, only cultures of impunity, and that there can be no security without women’s security.

Status of Forces Agreements (SOFA).

A Status of Forces Agreement (SOFA) or a Status of Mission Agreement (SOMA) is an agreement between a host State and the UN which embodies the consent of the host State to the presence of the peacekeeping operation on its territory and regulates the status, privileges and immunities of the peacekeeping operation. In our Status of Forces Agreements (SOFA) with Host Countries, the United Nations undertakes to ensure that the force will conduct its operations with full respect for the principles and rules of general conventions applicable to the conduct of military personnel. These include the four Geneva Conventions, their Additional Protocols, and the UNESCO Convention for



the Protection of Cultural Property. The UN also undertakes to ensure that the military personnel of the force are fully acquainted with the principles and rules of these instruments. Model SOFA (A/45/594) which is used as the basis for the conclusion of SOFAs and SOMAs with host States, requires that the peacekeeping operation and its members "shall respect all local laws and regulations" - this is a source of human rights law binding on the UN operation in the host State (if the law of the host State is consistent with human rights law).

Memoranda of Understanding (MOU).

The Agreement between the UN and Troop Contributing Countries (MOU with TCCs) requires that the Government will ensure that all members of the national contingent are required to comply with "UN standards of conduct". This includes an undertaking to comply with "Guidelines on international humanitarian law" and "the applicable portions of the Universal Declaration of Human Rights as the fundamental basis of our standards". There are also specific undertakings not to "use unnecessary violence or threaten anyone in custody", or to "commit any act that could result in physical, sexual or psychological harm or suffering to members of the local population, especially women and children". A "Blue Card" which sets out "Ten Rules Code of Personal Conduct for Blue Helmets" is issued to individual members of peacekeeping operations. Rule number 5 states the obligation to "respect and regard the human rights of all".

Observance by UN Forces of International Humanitarian Law¹⁸.

The SG's Bulletin "Observance by UN forces of international humanitarian law" (ST/SGB/1999/13) - sets out the "fundamental principles and rules of international humanitarian law [which] are applicable to UN forces when in situations of armed conflict they are actively engaged therein as combatants.."; which apply together with "national laws by which military personnel remain bound throughout the operation";

Rules of Engagement (ROE)¹⁹.

The ROE for the conduct of operations by UN peacekeeping forces are governed by the purposes of the Charter of the UN and relevant principles of international law, including the Law of Armed Conflict. The ROE require compliance with IHL, and reflect a number of principles of human rights law (in that they impose a duty to report every confrontation resulting in detention, or involving the use of force, and any contravention of the ROE must be subject to a formal investigation. The ROE also address conditions of detention which are required to be carried out in compliance with international law, and the application of the Interim Standard Operating Procedures on Detention).

ROEs are issued by the USG/DPKO for each peacekeeping operation and define the degree of force to be used and the manner of its application. ROEs are addressed to the HoMC, who is then responsible for issuing them to all subordinate commanders. While ensuring understanding, application and compliance with the ROE is the responsibility of commanders at all levels; the HoMC/Force Commander (FC) is ultimately responsible for the enforcement of the ROE. ROEs provide soldiers at all levels with a framework to determine when, where and how it is permissible to use force, up to and including deadly force. Commanders should keep in mind the following:

- a. All commanders should seek clarification if they consider the authorised ROEs to be unclear or inappropriate for the military situation they are facing.
- b. It is the responsibility of the contingent commanders to ensure that all those under their command understand and adhere to the ROEs.
- c. Before deployment, the ROEs must be translated in a clear and concise manner into the language of the TCC, and every soldier should be given an ROE Aide-Memoir (Blue Card).
- d. Training in the application of ROEs is the responsibility of commanders at all levels, and should be conducted on a regular basis, particularly after deploying in the mission.

In the context of CRSV, ROEs permit use of force including deadly force for the protection of civilians under imminent threat of physical violence (also covering all forms of sexual and gender-

¹⁸ Secretary-General's Bulletin on IHL, ST/SGB/1999/13, 6 August 1999.

¹⁹ DPKO-DFS Standard ROE.



based violence). In addition, the ROEs provides directions on detention, personnel and vehicle searches, cordon and search operations, and arms embargos which are undertaken as part of prevention and response to CRSV. Refer to Hand-out I for Summary of ROE as applicable to combating CRSV. Refer ‘**Annex F**’ (p. 30) for a generic and summarised version of ROE in CRSV context.

Training Requirements.

Training in IHL and IHRL is required to be undertaken pre-deployment as a national responsibility pursuant to the MOU with TCCs, and is followed up with UN mission specific training once troops are in the mission area.

Human Rights Screening Policy.

This policy outlines the principles and methodology by which the United Nations will pursue human rights screening of personnel. Under the Human Rights Screening policy, (i) Member States who nominate or provide personnel are requested to screen such personnel and certify that they have not committed or are alleged to have committed, criminal offences and/or violations of international human rights and humanitarian law; (ii) individuals who seek to serve with the UN are requested to sign self-attestations that they have not committed or are alleged to have committed, criminal offences and/or violations of international human rights and humanitarian law; and where necessary, to provide relevant information; and (iii) recruiting entities will seek information on the prior human rights conduct of candidates/nominees for senior appointments with the support of an information exchange mechanism.

Human Rights Due Diligence Policy (HRDDP)²⁰

The HRDDP sets out principles and measures to mainstream human rights in support provided by United Nations entities to non-UN security forces globally, in order to ensure that such support is consistent with the Organization’s Purposes and Principles in the Charter and its obligations under international law to respect, promote and encourage respect for international humanitarian, human rights and refugee law. UN support should help recipients progress to a stage where compliance with these bodies of law becomes the norm, ensured by the rule of law. Consistent with these obligations, UN support cannot be provided where there are substantial grounds for believing there is a real risk of the receiving entities committing grave violations of international humanitarian, human rights or refugee law and where the relevant authorities fail to take the necessary corrective or mitigating measures. For the same reasons, if the United Nations receives reliable information that provides substantial grounds to believe that a recipient of UN support is committing grave violations of international humanitarian, human rights or refugee law, the UN entity providing this support must intercede with the relevant authorities with a view to bringing those violations to an end.

Force Generation.

Force generation at the UN HQ and Office of Military Affairs (OMA) shall take into account the following:

- a. **Representation of Female Military Peacekeepers²¹**. In order to obtain the confidence of local communities, peacekeeping missions must have a fair representation of women. Female military peacekeepers provide an effective interface with the women and girls of the local communities (including local female police personnel) and are able to establish two way communication and rapport, which is essential to understand protection concerns, vulnerabilities and threats, as well as designing preventive measures through consultative processes. Women and children affected by armed conflict may feel more secure working with and reporting abuse to female military peacekeepers. The presence of women peacekeepers may encourage local women to participate in the national armed and security forces, thereby helping to build a security sector that is accessible and responsive to all, especially women. Women peacekeepers can outreach to sexual violence survivors and galvanize local women to join the national police. In addition, female military

²⁰ DPKO/DFS Force HQ Handbook, 2014.

²¹ DPKO/DFS Generic TCC Guidelines, 2008.



peacekeepers can bring gender-sensitive approach to planning and execution of military operations.

- b. **UN Military Commanders.** It is essential that UN Military Commanders (including female commanders) must have a clean human rights record and further be sensitised on relevance of effective response to CRSV. Senior UN military commanders must be sensitised on the UN approaches to prevention and response to CRSV through the Senior Mission Leaders Course (SML), Senior Leadership Induction Programme (SLIP), Intensive Orientation Course (IOC), senior in-briefings and during the annual HoMC Conference.
- c. **UN Military Staff Officers and UN Military Experts on Mission (UNMEM).** UN shall continue to propagate equal participation of male and female staff officers and experts (Military Observers, Military Advisers and Liaison Officers). Training on prevention and response to CRSV shall be mandatory for UNMEM, with specific focus on early-warning indicators, reporting, cross-cultural communication and constructive engagement of armed groups/actors.
- d. **UN Military Contingents.** Military contingents should have female peacekeepers (officers, rank and file, doctors and medics, as well as interpreters and language assistants).
- e. **CRSV Focal Points.** CRSV Focal Points shall be designated for the Force HQ, Sector HQ and contingents/units. Focal points must be trained on addressing CRSV prior to deployment to the peacekeeping operations.

Note:

- It is imperative that female peacekeepers must be part of frontline activities of the units/sub-units to optimise their vital role in community engagement, particularly with local women and girls.
- Contingents that do not recruit female military personnel must find alternative ways to deploy mixed teams, such as incorporating female armed police personnel with the military unit/sub-unit. Non-representation must not restrict or prevent execution of mandated obligations. In all cases, local female police personnel must be co-opted as applicable to conduct operations.

Part V: Role and Responsibilities of Member States and Regional/Sub-Regional Organisations

Overview.

Member States and various regional organisations play a significant role in the Security Council's mandate implementation. Some of the key roles and responsibilities of the Member States and ROs are explained in succeeding paragraphs.

Role and Responsibilities of the Member States.

States have an obligation to eliminate all forms of violence against women and girls, including by ending impunity and by ensuring the protection of civilians, in particular women and girls, during and after armed conflicts, in accordance with the international humanitarian law and international human rights law. States bear the primary responsibility to respect and protect the human rights of their citizens and all individuals within their territory as provided for by relevant international law. Member States are expected to comply with their relevant obligations to continue to fight impunity by investigating and prosecuting those subject to their jurisdiction that are responsible for such crimes. Member States are to:

- a. Heighten awareness and responsiveness to PoC, including women and children and prevent sexual violence against women and girls in conflict and post-conflict situations;
- b. Ensure full compliance of the zero tolerance policy on SEA through institution of appropriate preventive actions (including predeployment and in-mission awareness training), apportioning of full accountability and prosecution in cases involving their nationals;
- c. Include the full range of crimes of sexual violence in national penal legislation to enable prosecutions for such acts;
- d. Include specific training on sexual and gender-based violence (taking into account distinct needs of children) in the predeployment phase;
- e. Support national and international programs that assist victims of sexual violence such as the Trust Fund for Victims established by the Rome Statute and its implementing partners;



- f. Deploy higher percentage of women peacekeepers in peacekeeping operations;
- g. Encouraged to lend expertise on sexual violence investigation and response;
- h. Respect international jurisdiction for the violation of international law (e.g. convention on torture); and,
- i. Including CRSV as prohibited acts in ceasefire agreements.-

Role and Responsibilities of Regional and Sub-regional Bodies.

Regional and sub-regional bodies have been involved in developing and implementing policies, activities, and advocacy for the benefit of women and girls affected by sexual violence in armed conflict, particularly in the following fields:

- a. Taking measures to increase the representation of women in mediation processes and decision-making processes with regard to conflict resolution and peacebuilding;
- b. Providing information on situations of armed conflict in which sexual violence has been widely or systematically employed against civilians;
- c. Analysing the prevalence and trends of sexual violence in situations of armed conflict;
- d. Proposing strategies to minimize the susceptibility of women and girls to such violence;
- e. Establishing benchmarks for measuring progress in preventing and addressing sexual violence; and,
- f. Collecting timely, objective, accurate, and reliable information on the use of CRSV.

Conclusion

The scale and brutality of the sexual violence often committed against women in armed conflicts amount to war crimes and crimes against humanity and are violations of international human rights and humanitarian law. Therefore, it is imperative that the UN and the international community continue to intensify actions to end violence against women and girls, as well as men and boys. Impunity remains an important impediment to the prevention of sexual violence. Effective investigation and documentation of alleged sexual violence is decisive in proving that it has taken place, bringing perpetrators to justice and ensuring reparation and redress for survivors and their families.

UN peacekeepers can play an important role in preventing and addressing sexual violence, and should receive appropriate predeployment training in this regard. Most multidimensional peacekeeping operations have the mandate to protect civilians under imminent threat of physical violence.

The Military Component plays a crucial role in protecting vulnerable women and girls in the peacekeeping Mission through preventive and stabilisation operations. PoC being a priority obligation, military commanders must be responsive to address operational challenges in time and space, and be ready to use force within the framework of the ROE.

Takeaways:

Following are the important takeaways:

- a. Rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity, against women, men, girls or boys in a conflict or post-conflict situation constitute CRSV.
- b. CRSV is a violation of international human rights, humanitarian, criminal, refugee and customary law and is punishable and preventable.
- c. CRSV is usually under-reported and therefore under-responded.
- d. At the strategic level, CRSV is addressed through the peace process; women's participation; political engagement, eliciting commitments; human rights monitoring and investigations; listing of perpetrators; imposing sanctions and judicial processes.
- e. UN peacekeeping missions, particularly the military peacekeepers have a solemn obligation to protect civilians, including the women and girls who are often targets of CRSV.



- f. A coordinated and coherent response at the strategic, operational and tactical levels is essential to effectively address CRSV challenges.
- g. Peacekeeping Missions are required to institute proactive measures and credible responses to prevent CRSV, protect vulnerable sections of population and address potential/impending/on-going threats.
- h. Mission Mandate, ROEs, CONOPS, Operations Order, and other directives provide clear directions on role, responsibilities and mission essential tasks of the military components.
- i. Military peacekeepers must be cognizant of legal aspects and its operational implications, while undertaking preventive actions and responding to CRSV challenges.
- j. All operations must conform to the mandate and the mission-specific ROE.
- k. At the heart of any intervention regarding CRSV is the priority protection and assistance to the survivors, witnesses and community.



Key PoC-related Terms

in the Language of the Security Council Resolution and Mandates

- 1. Necessary action:** Gives the mission authority to take steps, up to and including the use of deadly force (as a last resort) to protect civilians under “imminent threat”.
- 2. ‘Civilians’:** The mandate authorizes protection for ‘civilians’. ‘Civilians’ means any person who is not participating directly in hostilities or other acts of violence. In case of doubt whether a person is a civilian, that person shall be considered a civilian.
- 3. Physical violence:** The mandate focuses on protection from the threat of physical violence. This includes but is not limited to acts intended to kill, torture, maim, beat, rape or otherwise sexually assault. However, incidents that do not involve intentional direct injury—such as natural disasters and famine—or violations of international human rights or international humanitarian law that do not concern physical injury, do not fall within the scope of the protection of civilians mandate. Such issues may be addressed by the mission through related mandate activities, including supporting humanitarian assistance and human rights monitoring.
- 4. Imminent (threat):** The mandate specifies an ‘imminent’ threat of physical violence; however, ‘imminent’ does not imply that violence is guaranteed to happen in the immediate future. A credible threat to civilians may exist if there is a reasonable belief that a potential aggressor has the intent to inflict physical violence. A threat of violence against civilians is imminent from the time it is identified until such time that the mission can determine that the threat no longer exists. Peacekeepers, at all levels of command, with a protection of civilians mandate are authorized to use force in any circumstance in which they reasonably believe that an imminent threat of violence against civilians exists.

Note:

Clause of “Imminent threat” was omitted from two recent mandates (e.g. MINUSCA and UNMISS).

- 5. Without prejudice to the responsibility of the Government:** The host State always has a primary responsibility to protect civilians within its borders and this responsibility is not diminished when a peacekeeping mission is deployed with a protection mandate. The mission’s protection mandate does not supplant that of the host State, but the mission should support the host State’s protection efforts or act independently to protect civilians when appropriate.
- 6. Within its capabilities:** Within the wide scope of possible incidents of physical violence against civilians, the mission must prioritize those situations or incidents of greatest concern and allocate its resources accordingly. As specified in the mandate, it can only act within its capabilities and areas of deployment: The mandate does not demand that peacekeepers engage in actions for which they are not equipped. At the same time, no peacekeeping force will be able to address all protection threats at all times. All missions must employ accurate threat and vulnerability analyses and coherent operational planning to deploy existing resources to maximize their protective effect for at-risk civilians.



**Forms of Sexual Violence in Armed Conflict
That are Considered as Serious International Crimes**

[Rome Statute: art. 7(1) (g); art. 8(2) (b) (xxii), art. 8(2) (e) (vi)]

1. **Rape** is defined as invasion 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 body part; and the invasion was committed by force or by threat of force or coercion against such person, or by taking advantage of a coercive environment or the invasion was committed against a person incapable of giving genuine consent.
2. **Sexual slavery** occurs where a person exercises any/all of the powers attached to the right of ownership over a person (such as purchasing, selling, lending or bartering such a person or persons) or imposing on them a similar deprivation of liberty; and causes such person or persons to engage in one or more acts of a sexual nature.
3. **Enforced prostitution** is where a person is made to engage in one or more acts of a sexual nature; by force, threat of force or coercion against such a person, or by taking advantage of a coercive environment or such person’s incapacity to give genuine consent; and the perpetrator or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature.
4. **Forced pregnancy** is where a woman forcibly made pregnant; is confined; and this act is undertaken with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.
5. **Enforced sterilization** is the deprivation of a person’s biological reproductive capacity which was not justified by the medical or hospital treatment of the person concerned or carried out with the person’s genuine consent. This does not include non-permanent birth control measures.
6. **Other forms of sexual violence of comparable gravity** are acts of a sexual nature against one or more persons or acts that cause such person or persons to engage in an act of sexual nature by force, or by threat of force or coercion against such person or persons or another person; or by taking advantage of a coercive environment or such person’s or persons incapacity to give genuine consent; and such conduct was a gravity comparable to the other offences mentioned above. They may include (depending on circumstances):
 - a. Indecent assault.
 - b. Trafficking.
 - c. Inappropriate medical examinations.
 - d. Strip searches.



Other Related Terms/Definitions

CRSV is recognised as a self-standing issue of concern to the Security Council. It should not be treated as synonymous or interchangeable with the following categories:

- a. **Sexual Violence**²². Sexual violence describes acts of a sexual nature which are perpetrated without a person’s consent, often by force or coercion. According to WHO²³, sexual violence is: *‘any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting’*.
- b. **Sexual and Gender Based Violence (SGBV) and Gender-based violence (GBV)**²⁴. According to the UN Interagency Standing Committee (IASC), the term gender-based violence (GBV) is used to distinguish common violence from violence that is directed against individuals or groups of individuals on the basis of their gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. While women, men and boys and girls can be victims of gender-based violence, women and girls are the main victims. In post-conflict countries levels of SGBV are specifically high. All UN peacekeepers are required to address both SGBV and CRSV. Some of the examples of SGBV are:
 - i. Domestic Violence;
 - ii. Harmful Traditional Practices (e.g. female genital mutilation - FGM).
 - iii. Sexual Assault/Abuse/Rape.
 - iv. Sexual Exploitation.
 - v. Physical Violence.
- c. **Sexual Exploitation and Abuse (SEA)**²⁵. Any actual or attempted abuse of a position of (i) a position of vulnerability, (ii) differential power; or (iii) trust, for sexual purposes, including but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Sexual abuse refers to the actual or threatened physical intrusion of a sexual nature, which can occur by force, or under unequal conditions, or under coercive conditions. Sexual abuse becomes sexual exploitation when a second party benefits – through making a profit or through a *quid pro quo* – through sexual activity. This may include forced and trafficking for the purpose of sexual exploitation. In situations involving children, the issue of consent is irrelevant. Child sexual abuse is the involvement of a child in a sexual activity to which he or she is unable to give informed consent (and may not fully comprehend), or for which the child is not developmentally prepared and cannot give consent, or which violates the laws or social taboos of society. SEA is prohibited conduct for all UN staff and is sanctioned through a specific set of UN rules and procedures. The Secretary-General’s Bulletin (ST/SGB/2003/13) applies to all staff of the UN, including staff of separately administered organs and programmes of the UN. UN forces conducting operations under UN command are prohibited from committing acts of sexual exploitation and sexual abuse, and have a particular duty of care towards women and children. SEA amounts to individual infractions of the rules of conduct and discipline, addressed elsewhere in the UN system.
- d. **Harmful Practices**²⁶. Harmful practices are persistent practices and forms of behaviour that are grounded in discrimination on the basis of, among other things, sex, gender and age, in addition to

²² OHCHR glossary.

²³ Understanding and Addressing Violence against Women: Sexual Violence, World Health Organisation, Technical Document, 2012.

²⁴ IASC definition for GBV and (DPKO/DFS GENDER FORWARD LOOKING STRATEGY, 2014-2018.

²⁵ SG/SGB/2003/13.

²⁶ CRC/CEDAW General Recommendation 31.



multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering. The harm that such practices cause to the victims surpasses the immediate physical and mental consequences and often has the purpose or effect of impairing the recognition, enjoyment and exercise of the human rights and fundamental freedoms of women and children. There is also a negative impact on their dignity, physical, psychosocial and moral integrity and development, participation, health, education and economic and social status. Practices should meet the following criteria to be regarded as harmful:

- i. They constitute a denial of the dignity and/or integrity of the individual and a violation of the human rights and fundamental freedoms enshrined in the CRC and CEDAW Conventions;
- ii. They constitute discrimination against women or children and are harmful insofar as they result in negative consequences for them as individuals or groups, including physical, psychological, economic and social harm and/or violence and limitations on their capacity to participate fully in society or develop and reach their full potential;
- iii. They are traditional, re-emerging or emerging practices that are prescribed and/or kept in place by social norms that perpetuate male dominance and inequality of women and children, on the basis of sex, gender, age and other intersecting factors;
- iv. They are imposed on women and children by family members, community members or society at large, regardless of whether the victim provides, or is able to provide, full, free and informed consent.

Female genital mutilation/cutting (FGM/C) or child marriage should not be reported as conflict-related sexual violence unless specific justification can be provided.

- e. **Survival Sex.** Survival sex will not fall within the rubric of conflict-related sexual violence as premised on international law, unless the circumstances are coercive and vitiate consent.



Key Provisions of United Nations Security Council Resolutions on CRSV

Security Council Resolution 1820 (2008)

1. Recognizes sexual violence as a tactic of war (op 1) and affirms that sexual violence can constitute a war crime, crime against humanity or constituent act of genocide (op 4).
2. Seek to strengthen the protection of women from sexual violence, by demanding all parties to armed conflict the immediate and complete cessation of all acts of sexual violence against civilians (op 2). It also demands all parties to take appropriate measures including: enforcing military disciplinary measures and upholding the principle of command responsibility, training troops on the prohibition of all forms of sexual violence, debunking myths that fuels sexual violence, vetting armed and security forces to take into account past rape and other forms of sexual violence, and evacuating women and children at risk to safety (op 3). It also requests the Secretary General and UN agencies to develop effective mechanisms for protecting UN managed refugees and displaced camps (op 10).
3. Calls for greater accountability by stressing the need for the exclusion of sexual violence crimes from amnesty provisions in conflict resolution processes and call on Member States to prosecute persons responsible for such acts and to ensure access to justice to victims of sexual violence, particularly women and girls (op 4). It also affirms its intention to consider enacting Security Council measures such as state sanctions against parties to armed conflict who commit sexual violence (op 5).
4. Requests the Secretary-General to develop effective guidelines and strategies to enhance UN peacekeeping operations to protect civilians, including women and girls, from all forms of sexual violence (op 9). It also calls for trainings for peacekeeping and humanitarian staff to help them prevent, recognize and respond to sexual violence (op 6).
5. Stresses preventative action by strengthening efforts to implement the policy of zero tolerance of sexual exploitation and abuse in UN peace keeping operations (op 7).
6. Urges all parties, including Member States, United Nations entities and financial institutions, to support the development and strengthening of the capacities of national institutions, in particular of judicial and health systems, and of local civil society networks to provide sustainable assistance to victims of sexual violence in armed conflict and post-conflict situations (op 13).
7. Seeks to increase women’s representation in peace operations by including the deployment of a higher percentage of women peacekeepers or police (op 8). It also urges the Secretary-General and his Special Envoys to invite women to participate in discussions pertinent to the prevention and resolution of conflict, the maintenance of peace and security, and post-conflict peace building (op 12).

Security Council Resolution 1888 (2009)

1. Calls for the establishment of several mechanisms within the UN system, including the appointment of a Special Representative to provide leadership and coordinate efforts with governments, as well as with all parties to armed conflict and civil society to address, at both headquarters and country level, sexual violence in armed conflict (op 4). It calls on the Secretary General to identify and deploy a team of experts to situations of particular concern with respect to sexual violence in armed conflict. This team, with the consent of the host government, will assist national authorities to prevent and address sexual violence (op 8). It also requests to identify women’s protection advisers (WPAs) among existing gender advisors and human rights protection units within UN Peacekeeping Operations for the protection of women and children from rape and other sexual violence (op 12).
2. Urges the inclusion of sexual violence issues in peace negotiation agendas and peace processes (op 17). It also urges the Secretary General, Member States and the heads of regional



organizations to take measures to increase the representation of women in mediation processes and decision-making processes with regard to conflict resolution and peace building (op 16).

3. Requests that the Secretary-General ensure more systematic reporting on incidents of trends, emerging patterns of attack, and early warning indicators of the use of sexual violence in armed conflict (op 24).
4. Requests the Secretary-General to submit annual reports on the implementation of Resolution 1820, including information on parties to armed conflict that are credibly suspected of committing patterns of rape or other forms of sexual violence (op 27).
5. Encourages States to increase assistance to victims of sexual violence, including access to health care, psychosocial support, legal assistance and socio economic reintegration services (op 13). It also encourages leaders at the national and local level, including traditional and religious leaders, to play a more active role in sensitizing communities on sexual violence to avoid marginalization and stigmatization of victims, to assist with their social reintegration, and to combat a culture of impunity for these crimes (op 15).

Security Council Resolution 1960 (2010)

1. Establishes a mechanism that allow the Secretary General to list parties that are credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict. It also expresses its intention to use this list as a basis for more focused United Nations engagement with those parties, including measures in accordance with the procedures of the relevant sanctions committees (op 3).
2. Requests parties to armed conflict to make specific, time-bound commitments to combat sexual violence and the Secretary-General to track and monitor implementation of these commitments (op 5 and 6).
3. Requests the Secretary General to establish monitoring, analysis and reporting arrangements (MARA) on sexual violence in conflict. It also encourages the Secretary-General to engage with United Nations actors, national institutions, civil society organizations, health-care service providers, and women's groups to enhance data collection and analysis of incidents, trends, and patterns of rape and other forms of sexual violence to assist the Council's consideration of appropriate actions (op 8).
4. Intends, when adopting or renewing targeted sanctions in situations of armed conflict, to consider including designation criteria pertaining to acts of rape and other forms of sexual violence (op 7).
5. Welcomes the work of gender advisers and the appointment of more women protection advisers to peacekeeping missions and notes their potential contribution in the framework of the monitoring, analysis, and reporting arrangements (op 10).

Security Council Resolution 2106 (2013)

1. Calls upon Member States to investigate and prosecute those subject to their jurisdiction who are responsible for sexual violence; encourages Member States to include the full range of crimes of sexual violence in national penal legislation (op 2).
2. Recognizes the need for more systematic monitoring of and attention to sexual violence in the SC's work and expresses its intent to address sexual violence in conflict, including, inter alia, in the establishment and review of peacekeeping and political mandates, public statements, country visits, fact-finding missions, international commissions of inquiry and in the work of relevant Security Council sanctions committees (op 5).
3. Recognizes the need for more timely, objective, accurate and reliable information as a basis for prevention and response and requests the SG and relevant UN entities to accelerate the establishment and implementation of MARA (op 6).
4. Calls for the further deployment of WPAs and calls upon the SG to ensure that the need for, and the number and roles of WPAs are systematically assessed during the planning and review of each peace mission, and to ensure that these experts are adequately trained (op 7).



5. Acknowledges the efforts of UN entities in ensuring that CoIs have sexual and gender-based expertise and encourages all Member States to support these efforts (op 9).
6. Demand for the complete cessation by all parties of all acts of sexual violence and call on these parties to make and implement specific time-bound commitments to combat sexual violence and to designate a high-level representative responsible for ensuring implementation of such commitments (op 10).
7. Requests the SG, Member States and regional organizations to ensure that mediators and envoys, where appropriate, engage on sexual violence issues and ensure that such concerns are reflected in specific provisions of peace agreements; urges the inclusion of sexual violence in the definition of acts prohibited by ceasefires and in provisions for ceasefire monitoring; stresses the need for the exclusion of sexual violence crimes from amnesty provisions (op 11).
8. Urges existing sanctions committees to apply targeted sanctions against those who perpetrate and direct sexual violence in conflict (op 12).
9. Recognizes the role of UN peacekeeping contingents in preventing sexual violence, and calls for all predeployment and in-mission training of troop- and police-contributing country contingents to include training on SGBV (op 14).
10. Requests the SG and relevant UN entities to assist national authorities in addressing sexual violence concerns explicitly in DDR and SSR processes and justice sector reform initiatives (op 16).

Rules of International Humanitarian Law Related to CRSV

Sources	References	Provisions
Customary Rules of IHL	Rule 93	Rape and other forms of sexual violence are prohibited.
Customary Rules of IHL	Rule 94	Slavery and the slave trade in all their forms are prohibited
Customary Rules of IHL	Rule 134	The specific protection, health and assistance needs of women affected by armed conflict must be respected.
Customary Rules of IHL	Rule 156	Serious violations of international humanitarian law constitute war crimes.
Geneva Conventions of 1949	Common Article 3	(...) the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture ; (...) (c) outrages upon personal dignity, in particular humiliating and degrading treatment ; (...)
Geneva Convention relative to the Protection of Civilian Persons in Time of War	Article 27, second paragraph	(...) Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault . (...) Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion (...).
Additional Protocol I	Article 75(2) (b)	(...) outrages against personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any other form of sexual assault (...)
Additional Protocol I	Article 76(1)	Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault . (...)
Additional Protocol I	Article 77(1)	Children shall be the object of special respect and shall be protected against any form of indecent assault
Additional Protocol II	Article 4(2) (e)	Prohibition of outrages against personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any other form of indecent assault



ROE: Summary

1. CRSV Context.

Use of force, up to and including deadly force is authorised when mandated for ‘Protection of civilians’ under imminent threat of physical violence (including civilians gathered in refugee/IDP camps, humanitarian personnel and human rights defenders) from abuses and violations of human rights and violations of IHL, including all forms of sexual and gender-based violence and grave violations against children. When and where possible, permission to use force should be sought from immediate superior commander.

2. Use of force, up to and including deadly force is authorised when a grave threat to life or a serious bodily injury is involved in the following instances:

- a. To defend oneself /other UN personnel against a hostile act/intent, or resist attempts to abduct/detain.
- b. To protect UN/designated key UN facilities, installations, equipment, areas or goods, against a hostile act/intent.
- c. To defend personnel assigned to assist or support/individuals designated by SRSG, against a hostile act/intent, or attempts to abduct/detain.
- d. To protect non-UN facilities, installations, equipment, areas or goods, against a hostile act/intent.
- e. Neutralising armed groups.
- f. Monitoring the implementation of arms embargo.
- g. In support of national/international judicial processes.
- h. When the freedom of movement of UN personnel/ personnel assigned to assist or support is limited/intends to be limited through the use or threat of use of armed force @.
- i. To prevent/stop commission of a serious crime by armed groups/government forces.
- j. To prevent the supply of weapons/related material/military advice/training/supplies and logistics support to illegal armed groups @.
- k. To prevent or suppress hostile activities/operations by illegal armed groups @.
- l. To degrade, neutralise or eliminate the fighting or operational capabilities of illegal armed groups that have not agreed to disband/lay down arms (including disarmament by force) @.
- m. To prevent forcible passage through roadblocks, CPs or cordons.
- n. When prevented from carrying out lawful orders issued by a superior commander.

@ When and where possible, permission to use force should be sought from immediate superior commander.

3. Use of force, excluding deadly force authorised when a grave threat to life or a serious bodily injury is involved in the following instances:

- a. To protect UN facilities, installations, equipment, areas or goods, against a hostile act/intent.
- b. To protect key facilities, installations, equipment, areas or goods, designated by SRSG against a hostile act/intent.
- c. When the freedom of movement of UN personnel/ personnel assigned to assist or support is limited/intends to be limited through the use or threat of use of armed force.
- d. To prevent forcible passage through roadblocks, CPs or cordons.
- e. When prevented from carrying out lawful orders issued by a superior commander.

4. Other Related Authorisations:

- a. Detention is authorised in all situations where the use of force is authorised (perpetrators of violations of IHRL and IHL may be detained on request from host Government).
- b. Searching of personnel and vehicles.
- c. Disarming of individuals/groups when directed by superior commander.
- d. Use of explosives, lasers, riot control equipment, etc.



Note: In CAR, UN Military & UNPOL have been vested with executive powers and are authorised to arrest (as per Urgent Temporary Measures), in addition to detention, search, transfer, and handover.

5. **Delegation of Responsibilities.**

The Force Commander or the commander, to whom the authorisation has been delegated, retains direct control over the use of force in these circumstances. Lowest levels of delegations are:

- a. Brigade Commander - Attack Helicopters.
- b. Force Engineer - Explosive Disposal/Demolitions.
- c. Battalion Commander - Cordon and search operations.
- d. Company Commander - Howitzers/Rocket Launchers/Mortars/Anti-tank weapons & Riot Control means.
- e. Platoon/Vehicle Crew Commander - Crew-served weapons (canons, machine guns, etc.).

6. **Graduated Use of Force**

Use of armed force is normally a measure of last resort, in response to a hostile act/intent. Graduated response aims to dissuade the parties concerned and provide a warning as well as deterrence to prevent escalation. It demonstrates determination and resolve through:

- a. Verbal Actions. Verbal negotiation and/or verbal demonstration.
- b. Unarmed force. Use of riot-control equipment, non-lethal weapons, etc.
- c. Charge Weapons. Visual and audible effect of charging the weapons.
- d. Warning Shots. Single aimed warning shots preferably into the air.
- e. Armed Force. Minimum necessary armed force on the order and control of on-scene commander.

Notes:

- Charging of weapons and firing of warning shots may only be done if the use of deadly force would ultimately be authorised.
- Fire can be opened as per ROE when there is insufficient time or communication with the on-scene commander is not possible.
- Enough time must be given to obey the warning.
- Fire can be opened without warning if an attack comes so unexpectedly that could lead to death/serious bodily injury or if the procedures do not hold any promise of achieving an authorised objective specified in the ROE, or when engaged in offensive operations.



End Notes

i In the **Central African Republic (CAR)**, the human rights situation is characterized by serious violations by armed groups that have included summary executions, enforced disappearances, illegal and arbitrary arrests and detention, and violence against women and girls (including all forms of sexual violence in armed conflict). Sexual violence had been a main feature of attacks on civilian communities, which slowly took the form of sectarian violence (including mass rapes, rape during house-to-house searches) by armed groups. Allegations of abductions, forced marriages and girls held in military camps as sex slaves are widespread. Many became pregnant, miscarried or contracted sexually-transmitted diseases, including HIV/AIDS. Many female politicians and female relatives of public officials have also been raped, kidnapped and tortured. In South-Eastern mining areas, women and children have also reportedly been kidnapped, raped and killed by LRA.

ii In the case of **Democratic Republic of Congo (DRC)**, all armed groups involved in the conflict have committed sexual violence against women and girls, as well as men and boys. In addition to rape, the crimes include sexual humiliation and slavery, genital mutilation, abduction, and forced recruitment and prostitution.

iii Security Council Resolution 1925 (2010) concerning the situation in the Democratic Republic of the Congo.

“Emphasizing that the protection of civilians must be given priority, the Council authorized MONUSCO to use all necessary means to carry out its protection mandate, including the effective protection of civilians, humanitarian personnel and human rights defenders under imminent threat of physical violence, as well as the protection of United Nations personnel, facilities, installations and equipment. The Mission would also support Government efforts to fight impunity and ensure the protection of civilians from violations of international human rights and humanitarian law, including all forms of sexual and gender-based violence.”

iv Security Council Resolution 2149 (2014) concerning the situation in Central African Republic.

- i. To protect, without prejudice to the primary responsibility of the Central African Republic authorities, the civilian population from threat of physical violence, within its capabilities and areas of deployment, including through active patrolling;*
- ii. To provide specific protection for women and children affected by armed conflict, including through the deployment of Child Protection Advisors and Women Protection Advisors;*
- iii. To identify and record threats and attacks against the civilian population, including through regular interaction with the civilian population and working closely with humanitarian and human rights organizations;*
- iv. To design, implement and deliver, in close consultation with humanitarian and human rights organizations and other relevant partners, a mission-wide protection strategy”.*

v **Temporality:** the requirement of proximity between the act of sexual violence and the period of conflict. For 1960 reporting purposes, sexual violence can be considered conflict-related over the following time horizon: when it occurs in a context of instability that may escalate to armed conflict; when it occurs during armed conflict; when it occurs during a period of occupation or against persons deprived of their liberty in connection with conflict; and when it takes place in the aftermath of conflict but prior to the restoration of State capacity/authority; **Geography:** the requirement that acts of sexual violence occur in conflict-affected areas; and **Causality:** the existence of conflict must have played a substantial part in the perpetrator’s ability or decision to commit sexual violence, the manner in which it was committed or the purpose for which it was committed. This excludes ordinary criminality that continues at pre-conflict levels and lacks a direct or indirect nexus with conflict. A relevant inquiry may be the extent to which sexual violence is exacerbated by the conditions of conflict and ensuing displacement or detention.

vi **Monitoring, Analysis and Reporting Arrangements (MARA) on CRSV** has been established with due coordination between SRSG-SVC and the SRSG for Children Affected by Armed Conflict (CAAC) and partners in the UN Action network in collecting, classifying and analysing information. MARA involves the task of collecting, classifying and analysing information to provide the Security Council and other global bodies with data that is comparable across field situations and over time. It will also foster greater attention to the links between SV and the broader context of conflict and peacebuilding. Such information can credibly ground a range of responses, including by the Security Council. Even in the absence of a judicial pronouncement, the MARA can report on the objective elements of the following credibly suspected international crimes:

- i.** SV as a war crime.
- ii.** SV as a crime against humanity.
- iii.** SV as a form of torture.
- iv.** SV as an element of genocide.

vii The UN publication “**Addressing Conflict-Related Sexual Violence: An Analytical Inventory of Peacekeeping Practice, 2010,**” provides a compilation of examples of early-warning systems, patrols and escorts tailored to women’s mobility patterns; night patrols in high-risk areas; and effective community liaison techniques, etc. It also provides a new frame of reference to strengthen monitoring and reporting on CRSV, as well as enhances operational readiness by the full spectrum of peace and security, human rights, humanitarian and development actors across the UN system.

