

Focus

CONFLICT-RELATED SEXUAL VIOLENCE IN LEGAL FRAMEWORKS



TRIGGER WARNING: This fact sheet contains definitions, descriptions and examples of sexual and gender-based violence.

CONFLICT-RELATED SEXUAL VIOLENCE UNDER INTERNATIONAL LAW

Conflict-related sexual violence (CRSV) is no longer seen as an inevitable by-product of war, but constitutes a crime that is preventable and punishable under international law. Frequently and deliberately used as a weapon of war targeting civilians, CRSV has many devastating impacts, inflicting long-term trauma for individuals and societies. Women and girls continue to be those primarily affected by CRSV, not least due to deep-rooted political, socioeconomic, cultural and institutional drivers of sexual and gender-based violence (GBV) and conflict.

Survivors can seek redress under several legal frameworks for conflict-related violence, predominantly international criminal law and international human rights law, including regional human rights frameworks. Knowing about the different legal frameworks that offer legal protection and redress is critical for survivors and advocates working alongside them. These frameworks operate in complementary way to one another. Concurrent legal protection under all frameworks provided by international law provide the most comprehensive legal protection to survivors, their families and communities.



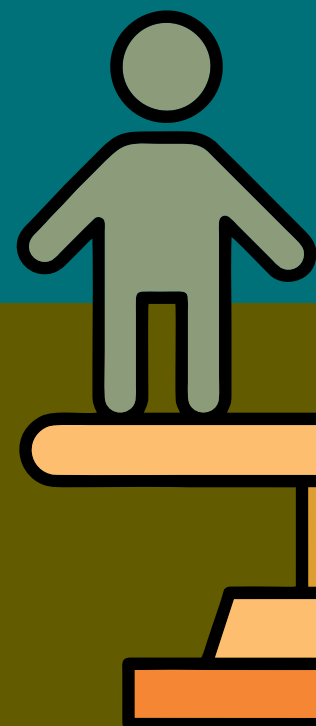
A DEFINITION BY SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE

According to the **Kinshasa Declaration**, a declaration by survivors of conflict-related sexual and gender-based violence (from Democratic Republic of Congo, Central African Republic, Chad, Guinea, Kenya, Liberia, Mali, Nigeria, Rwanda, Sierra Leone, South Sudan, and Uganda), **the term is to be understood broadly:**

"Sexual violence includes not only rape but also sexualized enslavement, forced sterilization, forced marriage, trafficking, imposed motherhood, forced pregnancy, sexual mutilations, among others. Victims can be any person, of any age, young and old as well as their children, families and communities. Children born to survivors of sexual violence are entitled to reparations in their own right. Reparation programs should acknowledge that sexual and gender-based violence can cause trans-generational harm."



INTERNATIONAL CRIMINAL LAW



In legal terms, the umbrella term “conflict-related sexual violence” encompasses various acts outlawed under international criminal law evoking individual criminal responsibility for perpetrators who directly or indirectly committed such acts.

“Conflict-related sexual violence” includes rape but also notably other acts of a sexual nature harming the sexual integrity, sexual autonomy and reproductive autonomy of a person, among them enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity.

Moreover, evidence of acts of a sexual nature can serve as indication that certain crimes have been committed. For example, **ACTS OF SEXUAL NATURE CAN BE INDICATION OF SLAVERY CRIMES** against humanity or of war crimes.

Notably, **CONSENT** is not a required element of the crime of rape or other sexual crimes under the **ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT**:

“1. The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.

2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.”

Such a definition is a result of combined jurisprudence from international criminal tribunals, the International Criminal Tribunal for Rwanda (ICTR) and the Former Yugoslavia (ICTY), as well as Hybrid Tribunals, such as the Special Court for Sierra Leone (SCSL) or the Special Penals for Serious Crimes, East Timor (SPSC).

EXAMPLE

IN 1998, THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (ICTR) FOUND AKAYESU RESPONSIBLE FOR RAPE AS A CRIME AGAINST HUMANITY AND RAPE AS A COMPONENT OF GENOCIDE.

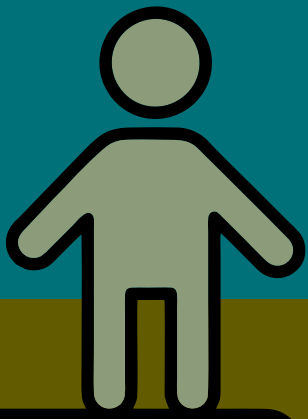
The International Criminal Court’s (ICC) Office of the Prosecutor (OTP) offers in its 2014 Policy Paper on Sexual and Gender-Based Crimes distinctions between **sexual crimes** and **gender-based crimes**.

SEXUAL CRIMES that fall under the subject-matter jurisdiction of the ICC are listed under articles 7(1)(g), 8(2)(b)(xxii), and 8(2)(e)(vi) of the Statute, and described in the Elements of Crimes (,Elements’). In relation to ,rape’, ,enforced prostitution’, and ,sexual violence’, the Elements require the perpetrator to have committed an act of a sexual nature against a person, or to have caused another to engage in such an act, by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, or by taking advantage of a coercive environment or a person’s incapacity to give genuine consent. An act of a sexual nature is not limited to physical violence, and may not involve any physical contact — for example, forced nudity. Sexual crimes, therefore, cover both physical and non-physical acts with a sexual element.

In its 2023 Policy on **GENDER-BASED CRIMES**, an update to the 2014 Policy Paper on Sexual and Gender-Based Crimes, the Office of the Prosecutor clarifies that:

“Gender-Based crimes are crimes under the Rome Statute that involve acts of sexual violence, reproductive violence, and/or other forms of gender-based violence.”

INTERNATIONAL HUMAN RIGHTS LAW



EXAMPLE

IN 1998, THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (ICTY) FOUND FURUNDZIJA RESPONSIBLE FOR RAPE AND TORTURE AS WAR CRIMES UNDER COMMON ARTICLE 3 OF THE GENEVA CONVENTION, AS RECOGNIZED UNDER ARTICLE 3 OF THE ICTY STATUTE.

Conflict-related sexual violence also constitutes violations of international human rights law, which States have a duty to uphold. International human rights law instruments, such as the International Covenant for Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) or the Convention on the Rights of the Child contain identified human rights violation applicable to survivors of conflict-related sexual violence of all gender identities and ages.

EXAMPLE

A Tigrayan woman who during the armed conflict in Ethiopia in 2020 was abducted and enslaved by armed forces together with her children and in the context of that enslavement has experienced rape and other forms of sexual violence that the children had to witness, has been subjected to the international human rights law violations:

- right to be free from slavery and the slave trade, Article 8 International Covenant for Civil and Political Rights
- right to be free from inhumane and degrading torture as well as torture, Article 7 International Covenant for Civil and Political Rights

The children who were abducted with their mother have experienced violations of their:

- right to be free from slavery and the slave trade, Article 8 International Covenant for Civil and Political Rights
- right to be free from inhumane and degrading torture as well as torture, Article 7 International Covenant for Civil and Political Rights
- right to be protected from all kinds of sexual abuse, including sexual violence in form of forced witnessing of sexual violence, Article 34 Convention on the Rights of the Child



Women Initiatives for Gender Justice published the [The Hague Principles on Sexual Violence](#) providing guidance to legal practitioners, academics and policy-makers on “an enhanced understanding of the various forms of sexual violence, to allow for more inclusive, survivor-centered, forward-looking and culturally sensitive responses to these crimes”.

International Federation for Human Rights’ [Glossary on key terms related to sexual and gender-based violence](#) constitutes for another useful tool in that regard.

CONTEMPORARY EXAMPLES OF CON

DISCLAIMER:

1 Every effort has been made to provide information that is current and accurate, taking into consideration that some conflicts as well as investigations of CRSV in the respective areas are ongoing at the time of research

ESTIMATES SHOW THAT FOR EVERY WOMAN WHO COMES FORWARD TO REPORT SEXUAL VIOLENCE IN CONFLICT, ABOUT 10 TO 20 CASES GO UNDOCUMENTED.

UNIFEM'S HIGH-IMPACT RESEARCH AND ANALYSIS THAT CAN GENERATE POLICY ATTENTION REVEALED THAT IN A SAMPLE OF 45 CONFLICTS SINCE 1989, ONLY 10 HAD PEACE AGREEMENTS MENTIONING SEXUAL VIOLENCE.

"In 2023, amid unprecedented levels of insecurity and political instability, **armed gangs** continued to consolidate control over territory through the **deliberate use of killings, kidnapping and sexual violence**, facilitated by ready access to military-grade weapons and ammunition trafficked from abroad. Gangs have taken over most of the capital and control access to essential resources, such as water, food, fuel and medical services. Brutal **patterns of gang-related violence**, including mass rape, previously concentrated in the capital, **spread rapidly in 2023** to other departments, notably Artibonite and North-West".

HAITI

UKRAINE

According to the United Nations Secretary General's 2023 Report on Conflict-Related Sexual Violence, in 2023 the human rights monitoring mission in Ukraine **documented 85 cases** of conflict-related sexual violence against civilians and prisoners of war, affecting 52 men, 31 women, 1 girl and 1 boy. In most documented incidents involving adult male victims, sexual violence was used as **a method of torture during their captivity by Russian armed forces** and law enforcement authorities. Conflict-related sexual violence included rape, threats of rape against victims and their relatives, electric shocks and beatings to the genitals, electric shocks to the breast, threats of castration, genital mutilation, unwanted touching, forced stripping and nudity. In territories of Ukraine under the control of the Russian Federation, acts of rape were documented against six women". As of December 2023 the Office of the Prosecutor General in Ukraine 252 cases (GIJTR, 2024).

According to the United Nations Secretary General's 2023 Report on Conflict-Related Sexual Violence, in 2023, "the United Nations Mission in South Sudan (UNMISS) **documented incidents** of conflict-related sexual violence, including rape, gang rape, sexual slavery, forced marriage, forced abortion and forced nudity, **affecting 118 women, 98 girls, 4 men and 1 boy**. A number of **earlier attacks** that occurred between 2020 and 2022, perpetrated against 56 women and 48 girls, were also **verified** in 2023. Pregnant women who were raped and gang raped suffered miscarriages, and in one instance, **died as a result of injuries** sustained during the attack. Members of the South Sudan People's Defence Forces abducted women and girls and forced them into sexual slavery, before releasing them. With the outbreak of conflict in April 2023 in the Sudan, some 532 000 people fleeing conflict crossed into South Sudan. South Sudanese **returnees** reported cases of sexual violence by armed groups, which occurred during their return to South Sudan".

SOUTH SUDAN

CONFLICT-RELATED SEXUAL VIOLENCE¹

ISRAEL/PALESTINE

According to the United Nations Secretary General's 2023 Report on Conflict-Related Sexual Violence, **the need persists for** "United Nations bodies to carry out a **fully-fledged investigation** into all alleged violations, including conflict related sexual violence, to ensure justice and accountability".

SYRIA

The Syrian Network for Human Rights (SNHR, 2023) documented 11 541 incidents of sexual violence (committed by different armed forces) in its 12th annual report on violations against females. The report notes that "the Syrian regime's used sexual violence as a weapon of war and an instrument of punishment in order to **spread mass fear** and to **force residents to flee** ahead of raids. Since 2011 Sexual violence has also been routinely used by regime forces as a **method of torture, retaliation, and intimidation**. Given the practice of sexual violence on such a wide scale it is very clear that this is happening with the implicit approval of the officers in charge of the regime's security services and armed forces who authorize such practices. The report outlines the most common patterns of sexual violence by regime forces, adding that these forces committed no fewer than **8019 incidents** of sexual violence including about 881 incidents that took place **in detention centers**, and no fewer than **443 cases** of sexual violence **against girls under the age of 18**".

MYANMAR

The United Nations Secretary General's 2023 Report on Conflict-Related Sexual Violence, stipulates that in "2023, **civic space further narrowed** since the 2021 military takeover, as reports emerged of **deepening patterns of rape and other forms of sexual violence** perpetrated against women, men, girls, boys and lesbian, gay, bisexual, transgender, queer and intersex persons. In some cases, victims were killed, including during military operations, largely perpetrated by the Myanmar armed forces".

On 17 August 2023, UN experts expressed alarm at reports of **brutal and widespread use of rape** and other forms of sexual violence by the Rapid Support Forces (RSF) during the internal armed conflict in the Republic of Sudan and called for an end to the ongoing violence. The experts expressed specific concern at consistent reports of widespread violations by the RSF, including reports that women and girls have been subjected to **enforced disappearance** and acts tantamount thereto, forced to work, and sexually **exploited**. Moreover, the United Nations Secretary General's 2023 Report on Conflict-Related Sexual Violence found that "in 2023, the United Nations **documented cases** of conflict-related sexual violence, including rape, gang rape, attempted rape, abduction and trafficking, perpetrated against 98 women, 18 girls, 1 man and 1 boy". The incidents occurred primarily in Khartoum, South Darfur and North Darfur States targeting women of several nationalities, ethnicities and religious backgrounds. Men in uniforms of the Rapid Support Forces were implicated in most cases, followed by members of the militia affiliated with the Rapid Support Forces, men in unidentified uniforms, and unidentified armed men while Sudanese Armed Forces elements were also implicated."

"While the Agreement for Lasting Peace through a Permanent Cessation of Hostilities signed by the Government of Ethiopia and the Tigray People's Liberation Front in 2022 ended fighting in the Tigray region, **reports of sexual violence persisted**. Against this backdrop, provisions of the Agreement relating to sexual violence, territorial integrity and transitional justice were partially implemented. **All parties to the conflict**, including members of the Ethiopian National Defence Forces, the Eritrean Defence Forces, the Amhara Special Forces and militia, and the Tigrayan forces, have reportedly been **implicated** in acts of CRSV. The International Commission of Human Rights Experts on Ethiopia concluded that in Tigray alone, between November 2020 and June 2023, some **10 000 survivors of sexual violence** had sought health care in one-stop centres", as per the United Nations Secretary General's 2023 Report on Conflict-Related Sexual Violence."

ETHIOPIA

SUDAN

THE UNITED NATIONS' DEFINITION OF C

According to United Nations Secretary General's 2022 Report on Conflict-Related Sexual Violence "the term "conflict-related sexual violence" refers to rape, sexual slavery, ... and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. This link may be evident in the profile of the perpetrator ...; the profile of the victim ...; a climate of impunity; cross-border consequences...; and/or violations of the provisions of a ceasefire agreement. The term also encompasses trafficking in persons for the purpose of sexual violence and/or exploitation, when committed in situations of conflict."

Similarly, the United Nations Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict's Model Legislative Provisions and Guidance on Investigation and Prosecution of Conflict-Related Sexual Violence defines "conflict-related sexual violence as incidents, or patterns of gender-based violence..." which "... constitute gross violations of international human rights law, serious violations of international humanitarian law, crimes against humanity, or genocide, and can occur in conflict or post-conflict settings that have direct or indirect links with the conflict or that occur in other situations of concern such as in the context of political repression."

Based on this understanding and the above-described definition the Special Representative of the Secretary-General (SRSG) on Sexual Violence in Conflict works with States towards meaningfully prevention, stopping and prosecuting such violence. The SRSG negotiates with States in which conflict-related sexual violence takes place and underlines from a multi-sectorial as well as legal perspective what is necessary to address the harm meaningfully.



UN SECURITY COUNCIL RESOLUTION

RESOLUTION 1325

- Reaffirms the important role of women in the prevention and resolution of conflicts and in peacebuilding efforts
- Emphasizes the important role of women in maintaining and promoting peace and security
- Stresses the need to include women in decision-making as it relates to conflict prevention and resolution
- Recognizes perpetration of sexual violence in conflict



2000

2001

2002

2003

2004

2005

2006

2007

2008

2009

RESOLUTION 1820

- Condemns the use of sexual violence as a tactic of war
- Declares that rape and other forms of sexual violence can constitute war crimes, crimes against humanity, or a constitutive act with respect to genocide
- Calls for the cessation of impunity and proposes the development of mechanisms to provide protection against violence for women and girls



CONFLICT-RELATED SEXUAL VIOLENCE



WHILE “conflict-related sexual violence” is a commonly known and **CONVENIENT AS AN UMBRELLA TERM:**

- it **SUGGESTS** that a link to an armed conflict is needed for an act to fall in the category of “conflict related sexual violence”, which is not the case
- it **FOREGROUNDS** violence over its sexualized nature
- it **OVERSHADOWS** its criminal, internationally outlawed nature
- it **HIDES** the interconnectedness between the international (both sexual and gender-based) crimes and the structural drivers causing such crimes (see Fact Sheet [“Addressing conflict-related sexual violence meaningfully”](#))

CTIONS ON WOMEN, PEACE AND SECURITY RESOLUTION (NON EXHAUSTIVE LIST)

RESOLUTION 1960

- Calls for development of an accountability infrastructure for CRSV to end impunity
- Calls upon parties in armed conflict to implement time-bound commitments to end CRSV
- Calls for monitoring, analysis, and reporting arrangements on conflict-related sexual violence



2010

2011

2012

2013

2014

2015

2016

2017

2018

2019

RESOLUTION 2467

- Recognizes structural root causes of sexual violence in conflict, including gender inequality
- Calls for a survivor-centered approach to prevention and response efforts, including in peace processes and other reform efforts
- Calls for strengthening justice and accountability mechanisms by use of sanctions and the provision of reparations



SOURCES AND FURTHER READING

- Kinshasa Declaration: <https://csiw-ectg.org/wp-content/uploads/2021/12/2021-12-20-Kinshasa-PrinciplesCLEAN.pdf>
- Indication of slavery crimes: <https://larc.cardozo.yu.edu/cgi/viewcontent.cgi?article=1089&context=faculty-chapters>
- The International Criminal Court's (ICC) Office of the Prosecutor (2014): "Policy Paper on Sexual and Gender-Based Crimes". Accessed on September 19th 2023: <https://www.icc-cpi.int/sites/default/files/iccdocs/otp/OTP-Policy-Paper-on-Sexual-and-Gender-Based-Crimes--June-2014.pdf>
- International Criminal Court, The Office of the Prosecutor: "Policy on Gender-Based Crimes" (2023). Accessed on May 15th 2024: <https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf>
- Patricia Viseur Sellers: "The Prosecution of Sexual Violence in conflict: The Importance of Human Rights as Means of Interpretation". Accessed on March 20th 2024: https://www2.ohchr.org/english/issues/women/docs/paper_prosecution_of_sexual_violence.pdf
- International Criminal Tribunal for Rwanda (ICTR), 1998, Akayesu case: <https://unictr.irmct.org/en/cases/ict-96-4>
- International Criminal Tribunal for the Former Yugoslavia (ICTY), 1998, Furundzija case: <https://www.icty.org/en/case/furundzija>
- United Nations Secretary General's 2022 Report on Conflict-Related Sexual Violence. <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2023/07/SG-REPORT-2023SPREAD-1.pdf>
- UN Offices of the Special Representative on Sexual violence in Conflict's: "Model Legislative Provisions and Guidance on Investigative and Prosecution of Conflict-Related Sexual Violence". <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2021/06/report/auto-draft/OSRSG-SVC-Model-Legislative-Provisions-ENG.pdf>
- <https://www.ohchr.org/en/press-releases/2023/08/un-experts-alarmed-reported-widespread-use-rape-and-sexual-violence-against>
- <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2023/07/SG-REPORT-2023SPREAD-1.pdf>
- https://peacekeeping.un.org/sites/default/files/2022_crsv_annual_summaries_english-dpo.pdf
- Women Initiatives for Gender Justice, "The Hague Principles on Sexual Violence". Accessed on September 20th 2023: <https://thehagueprinciples.org/>
- International Federation for Human Rights' Glossary on key terms related to sexual and gender-based violence constitutes for another useful tool in that regard: https://www.fidh.org/IMG/pdf/atoz_en_book_screen.pdf
- Different regional human rights law instruments which offer legal redress for survivors of conflict-related sexual violence: African Charter on Human and Peoples' Rights. https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf
- Maputo Protocol on the Rights of Women. https://au.int/sites/default/files/documents/31520-doc-maputo_protocol_on_womens_rights_a_living_document_for_womens_human_rights_in_africa_submitted_by_the_women_gender_and_development_directorate_wgdd_of_the_african_union_commission.pdf
- African Charter on the Rights and Welfare of the Child. https://au.int/sites/default/files/treaties/36804-treaty-african_charter_on_rights_welfare_of_the_child.pdf
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women. <https://www.oas.org/en/mesecvi/docs/belemdopara-english.pdf>
- EAW Factsheet conflict and post-conflict: Rape as a tactic of war. Accessed on April 24th 2024: https://www.unwomen.org/sites/default/files/Headquarters/Media/Publications/UNIFEM/EVAWkit_06_Factsheet_ConflictAndPostConflict_en.pdf
- UNIFEM's research and analysis: https://www.unwomen.org/sites/default/files/Headquarters/Media/Publications/UNIFEM/EVAWkit_06_Factsheet_ConflictAndPostConflict_en.pdf
- Kreft, Anne-Kathrin (2022): "This Patriarchal, Machista and Unequal Culture of Ours": Obstacles to Confronting Conflict-Related Sexual Violence". Accessed on April 26th 2024: <https://academic.oup.com/sp/article/30/2/654/6609241>
- McQuate, Mitch (2023): "Hidden Reality: Men, Boys and Conflict-Related Sexual Violence". Accessed on January 20th 2024: <https://www.interaction.org/blog/a-hidden-reality-men-boys-conflict-related-sexual-violence/>

DISCLAIMER:

Every effort has been made to provide information that is current and accurate. Nevertheless, inadvertent errors in information may occur.

IMPRINT

Publisher: Global Unit for Feminism and Gender Democracy of the Heinrich Böll Foundation, June 2024

Research: Alexandra Lily Kather and Aida Fatić

Text: Alexandra Lily Kather

Concept: Aida Fatić

Design: Maja Ilić, illustration on page 1: Vecteezy.com

This work is made available under the terms of the Creative Commons Attribution-ShareAlike 4.0 International (CC BY-SA 4.0 DE) licence. Full details of this licence are available at: <https://creativecommons.org/licenses/by-sa/4.0/legalcode>. A summary of (and not a substitute for) the licence is available at: <https://creativecommons.org/licenses/by-sa/4.0/deed.en>.