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COMMISSION ON HUMAN RIGHTS  
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**SPECIFIC HUMAN RIGHTS ISSUES**

**Systematic rape, sexual slavery and slavery-like practices  
during armed conflicts**

**Report of the High Commissioner for Human Rights\***

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\* This document is submitted late so as to include the most up-to-date information possible.

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## **Introduction**

1. At its fifty-first session, the Sub-Commission on the Promotion and Protection of Human Rights, in its resolution 1999/16, called upon the High Commissioner for Human Rights to submit a report to the Sub-Commission at its fifty-second session on the issue of systematic rape, sexual slavery and slavery-like practices in situations of ongoing conflict, including information on the status of the recommendations made by the Special Rapporteur of the Sub-Commission. The Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict was also requested to submit an updated report to the Sub-Commission at its fifty-second session.
2. In compliance with those requests, the High Commissioner submitted reports in 2001 (E/CN.4/Sub.2/2001/29) and 2002 (E/CN.4/Sub.2/2002/28). The Special Rapporteur submitted her updated and final report (E/CN.4/Sub.2/2000/21) and the High Commissioner submitted her first report (E/CN.4/Sub.2/2000/20) which was based on the activities of treaty monitoring bodies, special rapporteurs and the Commission on Human Rights and provided information on specific conflict situations available from those sources.
3. At its fifty-fourth session, the Sub-Commission, in its resolution 2002/29, called upon the High Commissioner to submit a report to the Sub-Commission at its fifty-fifth session on the issue of systematic rape, sexual slavery and slavery-like practices in situations of armed conflicts.
4. The present report is submitted in accordance with that request and supplements the information contained in the High Commissioner's previous reports. The present report therefore refers to new developments in the activities of human rights mechanisms and in international criminal, human rights and humanitarian law on the issue of systematic rape, sexual slavery and slavery-like practices in situations of armed conflict.

### **Violence against women, rape and sexual slavery as a weapon of war**

5. The tenth anniversary in 2003 of the Vienna Declaration and Programme of Action, and of the proclamation by the General Assembly in resolution 48/104 of 20 December 1993 of the Declaration on the Elimination of Violence against Women, are an opportunity to assess progress achieved since the adoption of those landmark documents. In paragraph 28 of the Vienna Declaration, the World Conference on Human Rights strongly condemned the "abhorrent" practice of systematic rape of women in war situations. Until Vienna, there had been no serious acknowledgement that sexual violence against women was among the acts prohibited during armed conflict. It was often argued that violence against women was an inevitable consequence of conflict. Indeed, until the mid-1990s there was no effective international framework for considering the rights of women affected by violence during conflict. Armed conflicts exacerbate discrimination and violence directed at women and most past and recent internal, international and ethnic-based conflicts have illustrated this fact. Rape and other sexual violence against women and girls has been used with impunity as a weapon of war to intimidate and terrorize the target population. In some cases, rape is used to punish and intimidate wives and female sympathizers of suspected male enemies. In many instances, it is seen as a means to humiliate the other side and to destroy the sexual purity of their women. Linked to the concept of honour, rape is a means of defeating the enemy.

6. Conflicts are increasingly affecting civilian populations and systematic rape is often being used to humiliate civilians and military personnel. Systematic rape has a destructive impact on society and diminishes prospects for a peaceful resolution of conflict. The first victims of these crimes are women and girls. Perpetrators and those who encourage them are particularly aware that the solidity of any social structure, especially during armed conflicts, depends on women to maintain the family structure. Therefore, attacking and assaulting women harms the structure of the family and of society as a whole.

7. Because of its nature, the consequences of sexual violence extend well beyond those of other forms of violence. The severe physical and psychological trauma to which victims are subjected endangers not only personal recovery but also post-conflict social reconstruction. Victims of rape can suffer consequences that include health problems (including HIV), rejection, depression, destitution, and even prostitution. In many conflicts, women face sexual violence by the enemy, as well as domestic violence by their partners. Because women and children represent the majority of refugees and of the internally displaced population, they are more vulnerable to abuse and violence by armed forces and, in some specific cases, by international personnel. Women are also increasingly becoming combatants, playing a major role in the conflict itself and in direct contact with male combatants, thus more liable to be sexually abused. Women are also increasingly trafficked to areas where large armies of men are stationed and are used as prostitutes or for other sexual purposes.

8. This gender-based violence is also a consequence of the lower status of women and girls in society. Women and girls are discriminated against, to varying degrees, in all societies. Women suffer continued violence and discrimination in the rehabilitation and reconstruction process. Despite the fact that women carry a heavy burden during conflict, in particular by assuming alone the responsibility of the extended family after men leave to fight or are imprisoned, they participate very little in reconstruction and reconciliation processes. Therefore, their needs are seldom taken into consideration in the programmes and their voices are seldom heard.

9. The adoption of resolution 1325 (2003) on women, peace and security by the Security Council represents the recognition on the part of the international community of the need to address the issue seriously and carefully. It represents a positive step towards the improved protection of women and girls during and after armed conflicts, and an acknowledgement that the assessment of the impact of armed conflict on women is key to international peace and security. The Council not only recognized the vulnerability of women during conflicts but also emphasized their contribution to maintaining and promoting international peace and security. In accordance with the resolution, the Secretary-General submitted a report to the Security Council S/2002/1154 which provides a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution. The implementation of the recommendations included in the report of the Secretary-General represents a key challenge for the coming years. In light of Security Council resolution 1325, the United Nations Development Fund for Women (UNIFEM) commissioned an expert study on women, war and peace<sup>1</sup>. The report makes many recommendations whose implementation should be seen in conjunction with those in the Secretary-General's report.

## I. HUMAN RIGHTS TREATY BODIES

10. This section updates information included in previous reports. When reviewing country reports, and if the country concerned is facing a conflict, treaty-monitoring bodies examine the impact of the conflict on civilians. The issue of gender-based violence in this context is receiving increased attention, depending on the instrument under which the State party is reporting, the type of conflict, the scale of sexual violence and the information provided by the State party and other sources. For the period May 2002-April 2003, the Committee on the Elimination of Discrimination against Women (CEDAW) has reviewed a number of reports of States parties in conflict situations.

### **Human Rights Committee**

11. The Human Rights Committee considers State party reports in light of its general comment No. 28 on gender equality in conjunction with general comment No. 29 on states of emergencies.<sup>2</sup> The clarification of the provisions of the International Covenant on Civil and Political Rights (ICCPR) provided by both general comments should result in better protection of women and girls against threats and violence, including sexual violence and sexual assault, in crisis situations.<sup>3</sup>

### **Committee on the Elimination of Discrimination against Women**

12. General recommendation No. 19, on violence against women, continues to be a document of reference for the work of the Committee.<sup>4</sup>

13. The Committee has often stated in its concluding comments that armed conflict has resulted in the denial of human rights of women and girls, and that they have been placed at special risk of violence, including rape, abuse and trafficking. The following are examples of relevant observations.

14. The Committee, when considering the third periodic report of one State, noted with concern that some areas of the country continued to experience insecurity as a result of civil strife, despite the positive involvement of women in peace-building initiatives. The Committee expressed particular concern at the fact that many women and girls in the conflict areas had been victims of violence, including abduction and sexual slavery. It therefore urged the Government to include women in national reconciliation and peace-building initiatives and to include women from all ethnic groups affected by armed conflict in peace negotiations. It also recommended that the State party include in peace negotiations measures of accountability, redress and rehabilitation for women and girls who had been victims of violence, including enslavement, in those conflicts.<sup>5</sup>

15. In its concluding comments on the report submitted by a second State, the Committee noted with concern the high incidence of ethnic and gender-based violence against women in periods of civil unrest. It also noted that such violence and domestic violence, including sexual abuse of women and girls, was legitimized, inter alia by social customs on the husband's right of chastisement.<sup>6</sup>

16. In regard to the third and fourth periodic reports of a third country, the Committee was alarmed by the high and severe incidences of rape and other forms of violence targeted against women of one community by the police and security forces in the conflict areas. While recognizing the prohibition of torture in the Constitution and the establishment of the interministerial working group to counter these acts of violence, the Committee was concerned that victims in remote areas might be unaware of their rights and of the manner in which to seek redress. The Government was thus urged to monitor strictly the behaviour of the police and the security forces, to ensure that all perpetrators are brought to justice, and to take all necessary measures to prevent acts of violence against all women. More resources to meet the needs of internally displaced women and children should be allocated in order to ensure their privacy, access to health facilities, security and protection from violence. The Committee called on the State to ensure full and equal participation of women in the process of conflict resolution and peace-building.<sup>7</sup>

17. In considering the report of a fourth country the Committee was disturbed by the fact that, despite strong evidence that members of the armed forces had committed acts of rape or other sexual violence against women in the context of an armed conflict, the State party had failed to conduct the necessary investigations or hold anyone accountable in the vast majority of cases.<sup>8</sup>

### **Committee on the Rights of the Child**

18. In reviewing the second periodic report of a country during its thirty-first session (September/October 2002), the Committee on the Rights of the Child expressed its concern that rape and other cruel, inhuman or degrading treatment had been committed against children in the context of the armed conflict. The Committee recommended to the Government that it take all measures to prevent all forms of violence against children and make sure that perpetrators of violence against children, including the police, were prosecuted. It also recommended an end to the practice of detaining children in camps where they suffer torture and other cruel, inhuman or degrading treatment or punishment and to make sure that those responsible for such acts were brought to justice.<sup>9</sup>

## **II. THE COMMISSION ON HUMAN RIGHTS AND ITS MECHANISMS AND PROCEDURES**

19. At its fifty-ninth session, the Commission on Human Rights referred to the issue in its resolutions on violence against women (2003/45) and on the rights of the child (2003/86). In resolution 2003/45, the Commission condemned violence against women committed in situations of armed conflict, such as murder, rape, sexual slavery and forced pregnancy, and called for effective responses to these violations of international human rights and humanitarian law. The Commission also recalled the inclusion of gender-related crimes in the Rome Statute of the International Criminal Court.<sup>10</sup>

20. Also during its fifty-ninth session, the Commission voiced particular concern regarding violations of women's rights in specific countries, including Afghanistan, Burundi, the Democratic Republic of the Congo, Myanmar, Sierra Leone and Somalia.

21. The reports submitted in recent years by some of the special procedures of the Commission on Human Rights, both country and thematic, identify common problems relevant to the present report.<sup>11</sup> It is notable that among human rights violations gender-based violence is more frequently mentioned than before. In her final report in her capacity as Special Rapporteur on violence against women (E/CN.4/2003/75 and Add.1-3), the Special Rapporteur made a thorough review of progress and obstacles in the field of violence against women and gender-based violence. She submitted information on international, regional and national developments in the area of violence against women and made an extensive review of the situation of violence against women by region, giving a country-by-country overview of the main progress, legislation and issues of concern. The report considers about 193 countries.

22. Information on gender-based violence examined by special rapporteurs is summarized thematically below. References to specific reports should be helpful in obtaining more detailed information.

### **Armed conflicts and sexual violence**

23. Most of the special rapporteurs who have reviewed the situations of armed conflicts recount cases of women being targeted in various types of conflict; women are raped, sexually abused, beaten, tortured and killed. Use of rape is being noted more frequently as a tactic of war, as a tool of revenge against the enemy and as a means of endangering the social order of the other side, thus hampering the reconstruction process. There is hardly any conflict, either domestic or international, where women were not specifically targeted, assaulted and abused, though to different extents. The reports speak about the cases of rape committed by staff of government and/or paramilitary forces in a systematic manner and in an atmosphere of impunity for the perpetrators of these war crimes.

24. The Special Rapporteur on violence against women stressed that in view of the number of conflicts that the African continent had unfortunately witnessed in recent times, the occurrence of sexual abuse, rape and enslavement of women and girls is particularly high in the region. Of the 48 African countries that she reviewed, women and girls were reported to have been victims of sexual violence, rape and sexual slavery in 15 of them. She also identified that in seven out of the eight reviewed countries in Asia conflicts had led to sexual abuse and rape of women. Those abuses were often accompanied by the trafficking of women and the exacerbation of domestic and other forms of violence. The Special Rapporteur also referred to three countries in Europe, which both had experienced conflicts and witnessed the sexual abuse of women.

25. HIV/AIDS and other sexually transmitted diseases, early pregnancies, community rejection of raped women and women forced into prostitution are only a few of the consequences of rape and sexual violence of women and girls during conflicts.

26. The Special Rapporteur on the situation of human rights in Burundi (E/CN.4/2003/45) considered the increase in the incidence of rape and other forms of gender-based violence as deriving also from the Government's encouragement of the recruitment of militias as a self-defence force. As the activities of those groups fall outside any regulations, and as members of the militias are not remunerated, they are more prone to extort money from the population, and are reported to have committed rapes and murders.

27. The special rapporteurs also point to the need for women to be part of the reconstruction process in post-conflict situations and emphasized the role of transitional justice in the peace-building context.

### **Vulnerability to sexual violence of internally displaced women and refugees**

28. Conflicts and its corollaries such as displacement of civilian populations, refugees and living in camps are factors aggravating the vulnerability of women to violence, especially sexual violence. The Special Rapporteur on violence against women and the Special Representative of the Secretary-General on internally displaced persons have reported allegations of rape and other sexual violence, perpetrated either during a conflict or in its aftermath, against internally displaced and refugee women and girls. The Special Representative, together with the United Nations Children's Fund (UNICEF) and the Brookings Institution-SAIS Project on Internal Displacement, co-sponsored a seminar held on 25 November 2002 in Rumbek, Sudan, on the subject, which, inter alia, acknowledged that women's traditional tasks, such as gathering firewood and cultivating crops, tended to place them at increased risk of rape in a conflict environment. However, avoiding such activities would make subsistence impossible. The seminar also discussed the physical and psychological consequences of rape.

29. The independent expert on the situation of human rights in Somalia noted in his report (E/CN.4/2003/115) that violence against women and girls, including rape, affected in particular women in camps for displaced persons, women and girls of rival clans and those of minority groups.

### **Combating impunity for sexual gender-based violence**

30. Various reports indicate that sexual violence often goes unpunished. This is why, in line with the jurisprudence of the ad hoc international criminal tribunals, the special rapporteurs have highlighted the importance for rape, enslavement and sexual violence against women to be considered crimes, investigated as such, and their perpetrators punished accordingly. While making the perpetrators accountable is the responsibility of States and their Governments, sometimes social reasons contribute to impunity, as in the reported cases where relatives of the victims sometimes prefer to settle things amicably rather than go before a court.

31. The Special Rapporteur on violence against women noted the positive jurisprudential and structural developments since her mandate was established in 1994, and the development of precise legal standards that confirm that rape and other gender-based violence during armed conflicts could constitute war crimes, crimes against humanity and components of the crime of genocide, as well as torture or other cruel, inhuman and degrading treatment and enslavement. She also stressed however, that combating impunity in this context continued to be a serious challenge. The vast majority of cases are not investigated, prosecuted or punished.

32. In this context, new measures and initiatives to address gender-based violence during conflicts need to be noted. They take the shape of special commissions established to address the problem of sexual violence at all levels as, for example, the Commission de lutte contre les viols et violence au Sud Kivu (Commission to combat rape and violence in South Kivu) in the Democratic Republic of the Congo, which works together with local and international non-governmental organizations (see E/CN.4/2003/3/Add.3). Special rapporteurs also stress the



need for effective mechanisms to address the issues of accountability of those acting on behalf of the State; military personnel; and linking the problem of rape of women and of other human rights violations against civilians with the issue of peace, development and justice.

33. Some special rapporteurs also report on their own investigations of specific cases drawn to their attention. In particular they regret the difficulty of establishing impartial and independent investigating teams to look into cases of women being targeted because of their gender and their ethnic origin.

34. The Special Rapporteur on the situation of human rights in Myanmar encouraged the authorities to look seriously into the allegations of rape of women and other human rights violations against civilians living in ethnic minority areas affected by armed conflict, in order to promote the cause of peace, development and justice in the country. The Special Rapporteur himself examined allegations that Shan women had been systematically raped by Myanmar military personnel. He received detailed briefings on three investigations into allegations of rape in Shan conducted by State officials, and raised the question of the independence of the governmental investigation teams. His own research team interviewed a number of victims of and witnesses to incidents of rape in Thailand.

35. The Special Rapporteur on the situation of human rights in Burundi gathered information on the events of 9 September 2000, when 170-300 people were reportedly killed. The identification of the victims revealed that "many were old people, children (sometimes mere babies) and women, some of whom were pregnant. Many of the women had been raped" (E/CN.4/2003/45, para. 26).

36. In his report, the Special Rapporteur on the situation of human rights in Afghanistan reported on field research in Kabul in early 2002 which found that "Many women have been subject to rape, forced marriage, torture, killing, fear, domestic violence, social exclusion and separation from their home and family members" (E/CN.4/2003/39, para. 32).

### **III. UNITED NATIONS SUPPORT TO TRANSITIONAL JUSTICE**

37. The United Nations has a key role in assisting countries during post-conflict reconstruction. Assistance to national capacity-building in the areas of human rights, transitional justice and the rule of law in general, and to participatory processes ensuring that the society as a whole is involved in the post-conflict reconstruction are essential elements of this approach. The United Nations programmes in Sierra Leone and in Timor-Leste provide important examples in that regard.<sup>12</sup>

38. In his report to the Commission on Human Rights, on the latest developments on the implementation of the peace process in Sierra Leone (E/CN.4/2003/35) the High Commissioner for Human Rights reported that women and girls continued to suffer the economic and social effects of the conflict, including widespread destruction of educational facilities, displacement of families, abduction, rape, forced marriages, enforced pregnancy and rape-related early motherhood. The report also noted the growing recognition of the central importance of combating impunity in order to achieve a sustainable peace in Sierra Leone. The Truth and Reconciliation Commission and the Special Court had been established to achieve national reconciliation. The Statute of the Special Court establishes jurisdiction over serious violations of

common article 3 to the Geneva Conventions, including “outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault”. It also makes provision for the application of gender-sensitive justice, including victim and witness protection measures, as well as achieving fair representation of female and male judges. The Office of the High Commissioner for Human Rights (OHCHR) and the Human Rights Section of the United Nations Mission in Sierra Leone (UNAMSIL) collaborate in providing support to these efforts. The Human Rights Section also cooperates with child protection agencies in inquiries into allegations of sexual abuse and exploitation of women and children involving peacekeepers. An inter-agency coordination committee was formed to coordinate the actions required to respond to allegations and to establish sustainable preventive systems. In May, standards of accountability for humanitarian workers, drafted by the Coordinating Committee for Prevention of Sexual Exploitation and Abuse (CCSEA), were published in an effort to ensure a degree of synergy among agencies in their approaches to this issue.

39. In reporting on the situation in Timor-Leste (E/CN.4/2003/37), the High Commissioner for Human Rights noted that violence against women remains a very serious and entrenched social problem in Timor-Leste. The issue of transitional justice and combating impunity is also vital in the country. OHCHR and the United Nations Mission of Support in Timor-Leste (UNMISSET) provide substantive and organizational support to the Truth and Reconciliation Commission. The report also noted that the Serious Crimes Unit was established in Timor-Leste in 2000, which is responsible for the investigation and prosecution of all serious crimes (including genocide, war crimes, crimes against humanity, murder, sexual offences and torture) that took place in the then East Timor between 1 January 1999 and 25 October 1999. Since its establishment, a total of 170 individuals had been charged; 145 suspects were alleged to have committed crimes against humanity, including murder, sexual offences, torture, inhumane acts, persecution, deportation and unlawful imprisonment.

#### **IV. DEVELOPMENTS IN INTERNATIONAL CRIMINAL, HUMAN RIGHTS AND HUMANITARIAN LAW**

40. The relevance of the statute and jurisprudence of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and of the International Criminal Tribunal for Rwanda (ICTR), as well as the Rome Statute of the International Criminal Court (ICC), to preventing and countering gender-based sexual violence during armed conflicts was considered in the previous reports of the High Commissioner. An important contribution in this regard has also been provided by Security Council resolution 1325 (2000) on women, peace and security and the report of the Secretary-General on the implementation of that resolution. They contribute not only to the international recognition and consideration of women as victims of conflicts, but also to ensuring social survival and promoting reconciliation and reconstruction.

41. The inclusion in the Rome Statute of ICC of special provisions on rape, sexual assault and gender-related crimes is a major advance. Article 7 of the Statute recognizes “[R]ape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” as crimes against humanity if committed as part of a widespread or systematic attack directed against any civilian population. The future judgements of the Court would be a key element in moving forward the jurisprudence regarding gender-based violence in the context of international law. The Rome Statute also addresses

numerous structural issues - including the need for judges and prosecutors with special expertise in violence against women and children and the establishment of a Victim and Witness Unit - that are critical if the Court is to function as a progressive mechanism for justice for victims of gender-based violence. Article 36 (8) (a) of the Statute calls for a gender balance among the judges and article 36 (8) (b) requires that one of the judges be a specialist on violence against women and children. Provision 36 (8) (a) on gender balance has been complemented by the procedure for the election of judges for the International Criminal Court adopted by consensus by the Assembly of States Parties at its first session in September 2002 in resolution ICC-ASP/1/Res.3. In its paragraph 3 (c) the resolution states that each State party shall vote for at least six candidates from each gender. This means that at least six women should be elected judges. Should the number of candidates fail to comply with the rules for the election of judges, inter alia in terms of gender, the President of the Assembly of States Parties shall inform States parties through specified channels (resolution ICC-ASP/1/2).<sup>13</sup> The election of 7 women among the 18 judges of the ICC is to be seen as a positive development.

42. The statute and jurisprudence of ICTY and ICTR have made a major contribution to the development of international humanitarian law and international criminal law. With the *Prosecutor v. Akayesu* case, (No. ICTR-96-4-T);<sup>14</sup> the *Prosecutor v. Kunarac et al.* case, also known as the *Foca* trial (Nos. IT-96-23-T and IT-96-23/1-T, judgement of 22 February 2001); and the *Furundzija* case (IT-95-17/1), both tribunals redefined the crime of rape in the context of armed conflicts and clarified the elements of the crime of rape within the meaning of the articles of their respective statutes. Most importantly, they acknowledged that rape and sexual enslavement, committed as part of a widespread or systematic attack directed against any civilian population, constitute crimes against humanity.

43. Other than in the cases cited above, rape was not often mentioned in the allegations, and thus in the charges, of the cases either under consideration by ICTY and ICTR, or already judged. However, among the cases under consideration by ICTY, the *Radovan Stankovic* case (IT-96-23/2-I) builds on the previous jurisprudence as the charges against the accused are enslavement and rape as crimes against humanity, and rape as violation of the laws or customs of war. Since the *Foca* trial, ICTY has passed one judgement where rape was mentioned among the allegations and the charges. It is, however, interesting to note that, building on the jurisprudence of the Tribunal in *Kvočka et al.* (IT-98-30/1-T), the person who was proved to have committed rape was judged also on that particular ground as a crime against humanity.

44. On 15 May 2003, ICTR delivered two judgements. The *Niyitegeka* and *Semanza* judgements (No. ICTR-97-20-T) represent the first conviction for inhumane acts: the decapitation and castration of a man, and the sexual mutilation of a dead woman, respectively. It is worth mentioning that in the *Semanza* case, the accused had also been charged with rape and other sexual violence but owing to a lack of evidence he was found not guilty of those particular charges.

45. It is worth recalling that common article 3 to the four Geneva Conventions prohibits all parties to a conflict from perpetrating "outrages upon personal dignity, in particular humiliating and degrading treatment". Common article 3 has over time been interpreted to include sexual

slavery.<sup>15</sup> Article 147 of the Fourth Geneva Convention, which deals with “grave breaches”, includes “torture or inhuman treatment ... wilfully causing great suffering or serious injury to body or health”. Additional Protocols I and II contain prohibitions against any form of indecent assault, especially against women and children.

46. The adoption by the Security Council of resolution 1325 (2000) has been very important in recognizing the vital role of women in promoting peace. It calls for an increased use of women’s expertise in conflict resolution and at all stages of peacemaking and peace-building. The report submitted by the Secretary-General in October 2002 on women, peace and security contains recommendations which will further assist in the implementation of resolution 1325 (2000), together with those of the independent experts of UNIFEM on the impact of armed conflict on women and the role of women in peace-building.

47. The 69 recommendations suggested by the Secretary-General to the Security Council focus on three main objectives: (i) to enhance the integration of a gender perspective in all peace-making, peacekeeping and peace-building efforts; (ii) to strengthen the implementation of the international legal framework; and (iii) to ensure protection and assistance to women and girls during armed conflict, and strengthen their role during humanitarian operations.

48. The Secretary-General also recommended to the Security Council that it condemn systematically all violations of the human rights of women and girls in situations of war and armed conflict. He further recommended that the Security Council ensure that amnesty provisions included in conflict settlement agreements reached under its auspices exclude all war crimes, crimes against humanity and genocide, including gender-based international crimes, from impunity. He recommended that support be provided and steps taken to ensure that women and girl victims of sexual, gender-based and any other form of violence during armed conflict have the enforceable right to reparations for damages incurred. He also recommended that the Security Council ensure that where crimes of sexual violence are committed in situations of armed conflict, all perpetrators, including those among United Nations international and local personnel, are prosecuted.

## V. CONCLUSIONS

49. **This year, the tenth anniversary of the Vienna Declaration and Programme of Action and of the Declaration on the Elimination of Violence against Women, provides a good opportunity to assess both the successes in the implementation of the two documents and the remaining challenges. Despite legal advances at the international level, e.g. the verdicts of ICTY and provisions of the Rome Statute, acknowledging that rape and sexual enslavement, committed as part of a widespread or systematic attack directed against any civilian population, constitute crimes against humanity, and that perpetrators should be held accountable and punished for such crimes, women continue to face widespread sexual gender-based violence during conflicts.**

50. **Recent activities of the United Nations human rights mechanisms reveal that when women have been victims of sexual gender-based violation during armed conflict, they often continue to be targeted even after the conflict ends because of an ongoing increased vulnerability, either in refugee camps or on the road back to their homes. Moreover, women continue often to be underrepresented or even absent from the negotiating table and in the peace process.**

51. **The acknowledgement by the Security Council that sexual violence against women during armed conflicts has a major impact on international peace and security represents a positive development. The implementation of the recommendations of the Secretary-General on the issue represents a key challenge for the coming years. The setting up of mechanisms of reconciliation, investigation and/or prosecution, such as those in Sierra Leone or Timor-Leste, is also an encouraging sign that sexual gender-based violence is considered seriously at the national level.**

52. **Conventional and extra-conventional human rights mechanisms should continue and strengthen their consideration of all gender-based violations of human rights. In order to assist human rights mechanisms in this task, the international community should be encouraged to provide systematically all relevant information on the issue. To end impunity for acts of sexual violence and sexual slavery during armed conflict, political will and concerted action on the part of the international community, Governments and non governmental actors is required.**

53. **To end the cycle of violence, the equal rights of women to participate in the economic, social, political and cultural life of their societies must be promoted and protected. Without the full equality and participation of women, the empowerment of women, allowing women to develop confidence and respect for themselves and enabling them to realize their full potential, and acknowledging the full value of the contribution they make to the well-being, security and progress of society, any measure taken to prevent the systematic rape and enslavement of women during armed conflicts will ultimately be doomed to failure.**

## Notes

<sup>1</sup> Women, War, Peace, The Independent Experts' Assessment by Elisabeth Rehn and Ellen Johnson Sirleaf, *Progress of the World's Women 2002, Volume 1*.

<sup>2</sup> While general comment No. 29 does not specifically address the protection of women against gender-based abuse in armed conflicts, it contains references to the need for respect for the general principle of non-discrimination in a state of emergency, and gender-based abuse against women would be an example of such discrimination. In adopting this general comment, the Human Rights Committee has clarified the content of article 4 of ICCPR, clarifying the necessity of respecting the principle of non-discrimination in a state of emergency, including on the basis of gender. Any derogation from the provisions of the Covenant by States parties in internal crisis situations would be subject to scrutiny by the Committee to ensure that the conditions for lawful derogation are fulfilled.

<sup>3</sup> For more details, see E/CN.4/Sub.2/2002/28.

<sup>4</sup> CEDAW acknowledged that wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures (para.16).

<sup>5</sup> *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 38 (A/57/38)*, paras. 155-156 (Uganda).

<sup>6</sup> *Ibid.*, paras. 58-59 (Fiji).

<sup>7</sup> *Ibid.*, paras. 286-287 (Sri Lanka).

<sup>8</sup> *Ibid.*, paras. 391-392 (Russian Federation).

<sup>9</sup> CRC/C/121, paras. 254-255 (Sudan).

<sup>10</sup> See also E/CN.4/Sub.2/2002/28, para. 35.

<sup>11</sup> References can be found in the reports of the Special Rapporteur on violence against women (E/CN.4/2003/75 and Add.1-3), the Special Rapporteur on the situation of human rights in Afghanistan (E/CN.4/2003/39), the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/2003/41), the Special Rapporteur on the situation of human rights in Burundi (E/CN.4/2003/45), the independent expert on the situation of human rights in Somalia (E/CN.4/2003/115).

<sup>12</sup> In his report on the human rights situation in Colombia (E/CN.4/2003/13), the High Commissioner for Human Rights also addresses issues relevant in this context.

<sup>13</sup> See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session (New York, 3-10 September 2003) (ICC-ASP/1/3 and Corr.1)*, United Nations publication, Sales No. E.03.V.2.

<sup>14</sup> See E/CN.4/Sub.2/2001/29.

<sup>15</sup> See preliminary report of the Special Rapporteur of the Sub-Commission on systematic rape, sexual slavery and slavery-like practices during periods of armed conflict, Linda Chanez (E/CN.4/Sub.2/1996/26).

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