

## THE USE OF RAPE IN ARMED CONFLICTS

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As with other armed conflicts including those of the former Yugoslavia, Dafar, the Democratic Republic of Congo, and now Libya, rape is used as a weapon against civilians—especially women and children-- by armed groups. Margot Wallstrom, U.N. Special Representative on Sexual Violence in Conflict, in addressing the U.N. Human Rights Council on 10 June 2011 stated, “Sexual violence has become a tactic choice for armed groups, being cheaper, more destructive and easier to get away with than other methods of warfare.”

Understanding why rape is used by armed groups in conflict situations is key to preventing it in the future. Rape causes physical, emotional and mental damage to its victims; some of which is long-lasting. Rape will also affect the circle of ties and connections each person who has been raped has. The effect of rape will be felt by women, children, men, wives, husbands, family structures and communities. Under the Rome Statute, rape is an international crime, identified as both a crime against humanity and a war crime.

In the following statement, *Physicians for Human Rights* explains why rape is such an awful but effective tool in breaking down communities and why all soldiers and fighters should be prosecuted and punished for the crime of rape . This statement was issued for the record of the U.S. Senate Committee on the Judiciary, Human Rights and the Law Subcommittee (Senator Richard Durbin, Illinois presiding):

### ***“Rape as a Weapon of War: Accountability for Sexual Violence in Conflict”***

1 April 2008

Physicians for Human Rights (PHR) commends Chairman Durbin, Ranking Member Tom Coburn, and the Human Rights and Law Subcommittee for their initiative in holding this hearing to address a violation of the most basic right to the integrity of the person, and one which has finally and rightly been documented and prosecuted during the last 15 years as a war crime, and in some cases as a crime against humanity and an element of genocide.

This hearing comes at a crucial and agonizing time in history when tens of thousands of women and girls continue to suffer rape, forced pregnancy, mutilation and death at the hands of brutal and ruthless militias as well as government forces in the conflicts in Sudan, Central African Republic, Chad, and the Democratic Republic of Congo. It comes at a time when humanitarian organizations are under unprecedented pressures and threats to keep silent about atrocities they witness and about the victims of rape whom they treat. And it comes at a crucial moment when advocates for international justice and local human rights and health organizations are struggling to protect women, document incidents, treat victims, and end impunity for this most “silent” crime.

Physicians for Human Rights (PHR), founded in 1986, is an American organization that mobilizes health professionals to advance health, dignity, and justice while promoting the right to health for all. PHR has investigated, reported on, and advocated to stop sexual violence in the conflicts in former Yugoslavia, Liberia, Sierra Leone and Sudan. We have trained health professionals from many countries in methods for documenting these crimes and supporting survivors. PHR has published pioneering reports along with articles in leading medical journals on the use of rape as a weapon of war, on the importance of holding perpetrators accountable, and on the prevalence as well as the medical and psychological consequences of sexual violence in armed conflicts.

In 1993, PHR researchers submitted "Rape as a crime of war," a landmark article published in the Journal of the American Medical Association, and more recently, the Harvard Humanitarian Initiative with the support of PHR produced "Rape as a Weapon of War: Accountability for Sexual Violence in Conflict," which focused on the crisis of mass rape taking place in Darfur.

Sexual violence has long been inflicted on civilians during armed conflict, although it is only within the last sixty years that it became expressly punishable under codified international law, including the Fourth Geneva Convention of 1949 and the Additional Protocols of 1977. In the 1990's, the International Criminal Tribunals for Rwanda and the former Yugoslavia successfully prosecuted individuals for mass rape. The 1998 Rome Statute of the International Criminal Court (ICC), which entered into force in 2002, further codified rape and other forms of gender violence, such as sexual slavery and forced pregnancy, as both a crime against humanity and a war crime. In PHR's analysis, rape and other forms of sexual violence are perpetrated against target populations to:

- Instill terror in the civilian population
- Humiliate and degrade individuals, their families, and their communities
- Further an agenda of cultural and ethnic destruction, exploiting the stigma that falls upon rape victims and their children to weaken marital and communal relations
- Displace populations, and hamper the ability of communities to reconstitute and organize a sustained return.
- Destroy group bonds, causing pervasive, and even deadly effects for women in particular

Although much progress has been made in bringing the perpetrators of sexual violence to justice in international courts, enormous hurdles remain. These include failures of the international community to support vigorous prosecution of rape cases, underreporting by survivors due to fear of public knowledge or reprisals, predominance of male interviewers and prosecutors, exclusive focus on the 'big fish' perpetrators, challenges of witness protection in insecure environments, exploitation of victims in the media, and re-traumatization of victims. Although justice and accountability efforts are critical, they should not obscure or replace the importance of comprehensive support to survivors and prevention of such atrocities in the first place.

### **The Physical and Psychological Consequences of Rape as a Weapon of War**

The physical and psychological effects of rape perpetrated as a weapon of war are compounded by myriad accompanying traumas. Women subjected to sexual violence in war usually are also suffering the traumas of the death (often violent) of family and friends, exile and dislocation, and the loss of everything familiar to them, from homes and possessions to traditions and routines.

Rape survivors bear numerous physical and psychological scars. Rape is a violent act, and victims may incur broken bones, concussions, and wounds. Women who resist the act may bear signs of self-defense, such as hair torn from the back of their heads and bruising of the arms and chest.

Rape victims also suffer from bruising or tearing of the genitalia, tearing of the perineum and damage to the bladder and rectum. If the perpetrators use foreign objects to penetrate a woman, or if the rape is extremely violent, the woman may experience traumatic fistula. This leads to chronic incontinence of urine and feces, which causes chronic health problems and possibly ostracism from the community. Rape victims are at risk of contracting HIV/AIDs and other sexually transmitted infections (STIs) and developing pelvic inflammatory disease, which carries a risk of long-term infertility. A woman who contracts an STI while pregnant is at high risk of miscarriage, spontaneous abortion and death.

Many women who become pregnant as a consequence of rape may attempt to induce abortion of the fetus, often at great risk to their own health. Women who conceive as a result of rape may not seek pre- or ante-natal care, and children they deliver are often neglected, abused, stigmatized, ostracized or even killed.

There are both immediate and long-term psychological consequences of rape in war for a woman, her family and the community. In the immediate aftermath, a victim may suffer from shock, denial, fear

and a sense of loss of control over her own life. A woman may manifest the psychological distress in physical symptoms including headaches, chest and pelvic pain. In the longer-term, a woman might suffer from depression, suicidal ideation and post traumatic stress disorder (PTSD). In addition to affecting her relationships with her husband and children, these conditions may render a woman unable to fulfill familial duties including taking care of the household and children or working.

Rape in war frequently entails more than one traumatic occurrence. In many conflicts, women have been captured and held captive for weeks, months or even years as sex slaves, and raped repeatedly. The psychological burdens for these women, including post-traumatic stress disorder (PTSD), depression, and suicidal ideation and attempts are extreme. The husbands and partners of women raped in war may experience profound shame feeling that the act has brought dishonor to them and the family. He may divorce the woman or begin to act verbally or physically abusive.

Widespread rape has profound consequences at the community level as well, as the violation ruptures social cohesion and entire communities feel vulnerable and traumatized collectively by the sexual violence.

### **Lessons Learned about Accountability for Sexual Violence in War from PHR's Research -- Former Yugoslavia**

The former Yugoslavia marked a turning point in terms of international justice for sexual violence in conflict: for the first time, rape was assessed separately as a war crime in international law and was eventually prosecuted as such in the International Criminal Tribunal for the former Yugoslavia. In 1993, PHR sent a representative on a UN medical team to investigate allegations of widespread rape in the former Yugoslavia, where tens of thousands of women are reported to have been raped by soldiers.

PHR reported on the barriers to accurate assessment and treatment of victims of sexual violence, including:

- Fear, stigma and pain experienced by victims of rape that often prevented them from reporting their experiences
- Lack of support systems to facilitate disclosure
- The additional trauma of forced pregnancy and the resulting neglect or rejection of the unwanted child
- Lack of research on the psychological effects of rape in armed conflict
- The importance of understanding and responding to victims in a culturally appropriate manner and in the context of associated traumas including forced displacement, loss of loved ones and community, untreated illness and other war-related injury

PHR's researcher, Dr. Shana Swiss, also recommended a variety of methods to improve the approach to victims of sexual violence in armed conflicts, including the ways in which medical personnel who are likely to have first contact with survivors could preserve physical evidence of rape for subsequent accountability procedures. PHR cautioned about over-interviewing survivors who came forward, and the risks of retraumatization. PHR strongly recommended the development of guidelines to ensure voluntary consent, confidentiality, and psycho-social supports, including community-based interventions, for those seeking redress and healing.

### **Liberia**

Work launched by Dr. Swiss, and which she continued in a unique collaboration with local health workers in Liberia in the early 1990s, demonstrated alarming prevalence of rape, attempted rape, strip searching and sexual coercion by soldiers and fighters in wartime. A startling 49% of women and girls randomly sampled in the capital city of Monrovia had experienced at least one act of physical or sexual violence during five years of civil conflict in Liberia between 1989 and 1994. Women who belonged to an "enemy" ethnic group were more likely to experience violence in a given encounter.

The research teams that developed these important data took great precautions to protect the privacy and safety of the women interviewed, and found that in safe environments, women are able and willing to testify to sexual violence, especially when it is documented by health workers as a health and safety issue. Most interesting, the process of training local health workers to interview and document sexual violence empowered them to advocate against rape and sexual assault as a matter both of human rights and health. The process also spurred the development of role-playing and story telling--used in the research-- for local community organizing to stop violence against women.

The pioneering work in Liberia by Dr. Swiss and her colleagues highlights the transformative power of collaborative health and human rights documentation for the purposes of acknowledgment, public education, community organizing and advocacy, as well as accountability efforts.

### **Sexual Violence as a war crime in Sierra Leone**

In 2002, Physicians for Human Rights published the most comprehensive population based assessment to date of war-related sexual violence and other human rights abuses in Sierra Leone. PHR found that combatants had committed widespread crimes against an estimated 50,000 to 64,000 Sierra Leonean women including: abductions, beatings, killings, rape and other forms of sexual violence, torture, forced labor, gunshot wounds, serious injuries, and amputations.

- 94% of the 991 households randomly surveyed by PHR reported that at least one of the abuses listed above had taken place during the previous ten years of conflict
- 13% of respondents reported one or more incidents of war-related sexual violence.
- A striking **53% of respondents who reported having “face-to-face” contact with Revolutionary United Front forces reported experiencing sexual violence**; one third of the women who reported sexual violence reported being gang raped. The main concern expressed by women in the study related to the personal and financial insecurity that they faced as a result of the war, such as the fear of how they would provide for themselves and their children, including offspring from the assaults. In the words of one respondent:

*“There will be no better future for me because I am broke. No man will marry me or take me seriously. I don’t want to become sick, to get what they call AIDS. People will begin to say a lot about me if they know what happened to me.”*

PHR’s study also included an assessment of women’s beliefs about justice for the perpetrators. 42% of respondents thought their attackers should be punished, and the most common reasons cited for not punishing a perpetrator included “in the spirit of reconciliation”, fear of reprisal, no confidence in the system for such punishments, or that they wanted to forget about the incident.

In spite of the barriers and threats they perceived, 23% of the women reporting sexual violence to PHR stated that they were willing to give their names to the proposed Special Court and/or the Truth and Reconciliation Commission.

Many Sierra Leonean women’s associations advocated for increased attention to sexual violence and its aftereffects by the Special Court for Sierra Leone and the Truth and Reconciliation Commission (TRC). Victims of sexual violence were prioritized by the TRC as a vulnerable category, and the Report of the Truth and Reconciliation Commission recommended that they receive free medical assistance and financial support, in recognition of the physical, psychological, economic, and social repercussions that these victims faced. In a positive contrast to the South African Truth and Reconciliation Commission, the Sierra Leonean TRC did not require that potential beneficiaries cooperate with the commission in order to receive reparations.

The Commission argued that the State had a legal obligation to provide reparations for crimes committed not just by state actors, but also by non-state actors. Such a provision is extremely

important in reparations processes, since women are often not able to identify their perpetrators and since most of the abuses were committed by rebel forces.

### **Sexual Violence in the Conflict in Darfur, Sudan**

Physicians for Human Rights has documented the violence and devastation in Sudan's Darfur region since 2004. The organization has:

1. Sent teams of investigators to document the violence and destruction in Darfur and to interview genocide survivors in camps in Chad
2. Trained Sudanese nationals in international standards of documentation of rape and torture
3. Conducted advocacy campaigns to protect civilians and to ensure that victims – particularly victims of rape and other vulnerable groups – receive compensation and reparations for their losses.

During three trips to the region—in May 2004, and January and July 2005, investigators for PHR collected first-hand testimony from dozens of survivors of the attacks on three Darfurian villages and surrounding areas with a total population of 30,000 to 40,000 inhabitants. Investigators heard repeated stories of women being raped, often in front of their families and often by multiple perpetrators, from respondents from different villages whose villages were attacked at different points in time. Because rape is a deeply shameful topic in Darfur, PHR investigators did not ask respondents directly if they had suffered sexual violence. Of the 35 people asked the question “Have you been subjected to or observed rape or sexual assault”, 13 responded in the affirmative. In open-ended questions, some of the respondents noted that they themselves were raped, or witnessed others being raped, by the *Janjaweed* militias in front of family members, or out in the open where people fleeing from the violence could see. This tactic may have been an attempt to publicly humiliate the husbands and shame the women, thus weakening familial and societal bonds. Some women who were sexually assaulted were also beaten by their attackers, leaving them with broken bones and internal and external bleeding. In addition to physical injuries, many rape victims are left with profound emotional scars and trauma.

A 20 year old woman from Jartagat village explained how she was raped by two *Janjaweed* soldiers.

*“They saw me and it was too late to run. They took me inside my house and raped me several times. They beat me up, then they left me to die.”*

She explained that it took her months to recover from her injuries and that she has not been able to conceive since the attack. She had not told anyone about what had happened to her.

Physicians for Human Rights, in conjunction with REDRESS, a London-based group that advocates for compensation for victims of torture, led a series of three training workshops in 2005 and 2006 for the a Sudanese Non-Governmental Organization (NGO) that provides medical, psychological and legal services to victims of torture and sexual violence. This organization sent staff from its offices in Khartoum and Nyala (in Darfur) to the training, which was also attended by police officers, judges, state doctors and local officials with the federal Ministry of Health. The training was based on the guidelines of the Istanbul Protocol, a UN-adopted manual which provides international standards for medical and legal evaluations of allegations of torture and ill treatment, including sexual assault. PHR and REDRESS trained local health workers and lawyers on effective methods for documenting physical and psychological evidence in cases of torture, rape and sexual violence.

Our Sudanese colleagues at the NGO reported the many difficulties they face in treating the victims of rape, and seeking legal redress for them in court. Widespread rape continues in Darfur – women living in camps for the internally displaced report being sexually assaulted both by government forces and *Janjaweed* militias when they leave the relative security of the camps to gather firewood they need to cook food for their families. Members of rebel groups are also reported to have raped women as factional fighting increases in an environment of continued insecurity and violence. Until August

2004, rape victims in Darfur had to fill out a form (Form 8) at the police station before they were able to seek medical attention. While this law has changed, our colleagues state that many women are still reluctant to seek treatment because they think that they will have to report the incident to the very authorities linked to a policy of inflicting mass rape on the non-Arab civilian population of Darfur.

The high evidentiary requirements of proving rape in Sudan (the law requires that the woman produce four male or eight female witnesses to the crime) mean that few cases are successfully prosecuted. And, because the legal definition of rape is “intercourse between a man and a woman who are not married to one another, that is, performed without consent”, a woman who cannot prove the lack of consent may be charged with adultery, the punishment for which is stoning to death. The obvious unwillingness and inability of the Government of Sudan to prosecute rape and hold perpetrators accountable argues for aggressive efforts to prosecute rape as a war crime at the International Criminal Court in The Hague.

Finally, several of PHR’s Sudanese colleagues – lawyers, doctors and social workers - have reported that they themselves have been subjected to harassment and intimidation. Some have been arrested, and others have received summons to appear at local security service offices for days at a time. Their offices have been shut down for months at a time. Despite this attempt to intimidate them, they continue to struggle to provide vital services to survivors of the atrocities in Darfur.

### **Challenges to Accountability**

Various factors prevent accountability for perpetration of rape as a weapon of war. These include a failure to prevent attacks in the first place; the underreporting of the actual problem and its relative invisibility, including in the media; the failure to adequately protect women as well as civilians in general in the midst of conflicts, difficulties of documenting the crime for evidentiary purposes, and the inadequate support for effective prosecution efforts, at both domestic and international levels.

### **Prevention**

A paramount challenge is preventing the widespread use of rape as a weapon of war in the first place. Though the Geneva Conventions state that “women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault,” rape was widely perpetrated in wars throughout the 20th century where civilians increasingly became targets of war. In civil conflicts during the past 20 years, governments have sponsored the use of rape as a weapon of war either by overtly sanctioning or failing to prohibit its use by their armed forces or proxy militias (as is the case in Darfur, where the Sudanese government knows that the Janjaweed militias are employing rape as a technique), or failing to protect women and children from mass rape by an armed rebel group (i.e., the RUF in Sierra Leone).

### **Underreporting of the Crime**

While the rates of sexual violence found by PHR and others in studies in former Yugoslavia, Liberia, Sierra Leone, Darfur, and the DRC are high, these rates are likely lower than the actual prevalence levels. There are a number of reasons why rape and sexual assault are not reported. First is the stigma and shame associated with rape; rape is seen as bringing shame upon a woman’s family and her community. In the case of Darfur, a woman who has been raped may be divorced by her husband if she is married, or considered unmarriageable if she is single. In some cases, she may even be forced to leave the community altogether. In PHR’s Sierra Leone study, 64% of the respondents reported not telling anyone about the incident because of ‘feelings of shame or social stigma.’ Second, a woman may not report the crime as there is often little ambient security and a she may risk further violence in the process of seeking medical attention or reporting an incident. In some countries, women may be forced to report the crimes to officials before they are able to receive medical treatment. In such circumstances rape victims may be unlikely to take the risks inherent in filing a claim of sexual assault: harassment by authorities, being charged with adultery, ostracism or rejection by husband, family or community. These hurdles are formidable especially when the chance of successful prosecution of the perpetrator is slim.

### **Weakness in Documentation of Rape**

In conditions of armed conflict, it is often extremely dangerous, if not impossible, for women to seek and receive treatment for their injuries, let alone provide information about the attacks or evidence for accountability efforts. In the case of Darfur, for example, many women and girls were attacked in the course of devastating assaults on their villages in which nearly all of the residents fled into the surrounding desert to escape. They wandered for weeks and even months in some cases with no access to medical treatment. By the time these women reached safety, little physical evidence of sexual violence remained, although physical and mental effects persisted. From 2004 until the present, dozens of humanitarian organizations have been working under extraordinarily difficult circumstances in refugee camps in Chad and in camps for the internally displaced in Darfur. During this time, several groups that published reports documenting widespread rape were harassed by the government; in one case two aid workers who spoke publicly about rape in Darfur were arrested and interrogated. The Government of Sudan accused one NGO of falsifying a rape report, then subjected the rape victim to multiple gynecological exams and published her name, age, occupation and location of residence in the newspaper.

A woman reporting rape in Sudan must fill out the Form 8 at the police station. Few, if any, police in Sudan are trained to deal with victims of sexual violence, and many women report that the police lack tact and compassion and may themselves be verbally or even physically abusive. Many women see the police as tied to the powers that are inflicting violence upon their communities. Thus, the requirement of the Form 8 serves as a deterrent for women to report rape. In addition, Form 8 is incomplete as a method of documenting rape; it records only the most basic information, not all of it either relevant or appropriate (recent loss of virginity, bleeding or the presence of sperm), and does not require more complete or relevant physical documentation or the collection of the aforementioned evidence.

### **Weakness of Local Judicial Systems**

In many cases, national judicial systems are either incapable of or unwilling to prosecute rape on an individual scale, let alone a massive scale. Furthermore, rape laws usually have such a high burden of evidence that prosecution is nearly impossible. In Sudan, for example, a woman must present four male witnesses to the act of penetration, a nearly insurmountable burden of proof. And, as mentioned before, because the crime of rape is defined as ‘zinna’, which is translated as ‘adultery’, a woman who comes forward to report that she has been raped risks in turn being charged with adultery. Finally, because the Form 8, the aforementioned document in Sudan for reporting rape, does not require a more complete physical exam or collection of relevant evidence (photographs of bruises, a woman’s testimony of the incident), it is relatively ineffective in a court of law where high burdens of eyewitness, physical and documentary evidence are currently demanded.

### **Justified Reluctance of Humanitarian Actors to Become Involved in Accountability**

There is a legitimate fear amongst humanitarian actors that they may risk access to the populations they are there to serve, or endanger their own personnel if they speak publicly about human rights violations that they are aware of. In the recent past, relief workers have been the targets of harassments such as administrative refusal to renew visas or work permits; physical searches or beatings, and even sexual assault or killings for speaking publicly. There is also an understandable prioritization by most international relief organizations of their role in meeting the immediate health needs of the communities they serve, and a concomitant reluctance to collect or provide evidence of rape and other atrocities, which also requires special training, expertise and security measures. Such activities may also engage politically “neutral” NGOs in roles where they may appear to or be accused of taking sides in a conflict. In the case of Darfur, the Sudanese Government’s arrest of NGO workers who have reported on or spoken publicly about mass rape in that conflict has sent a chilling message to the entire humanitarian community.

### **Failure to Prioritize Prevention of Sexual Assault in Peacekeeping Situations**

When the situation in a given country becomes so fraught that the United Nations intervenes with a peacekeeping or protection force, not enough attention is paid to the problem of sexual violence

against women in the course of the conflict. Except for those specifically hired to deal with gender-based violence, few peacekeepers, UN or NGO workers have training in how to deal with victims of sexual assault.

There are measures that NGO workers or peacekeepers can take to protect women from violent sexual assault. African Union peacekeepers implemented firewood patrols in Darfur to accompany women when left internally displaced persons camps to gather firewood. While there is little data on the reduction of rape, many news reports indicated that the incidence had decreased. However, these patrols were never implemented across all of the camps, and even in the camps where they formed they are reported to have been uneven, irregular and unpredictable.

### **The Importance of Accountability**

There are several reasons why accountability is important. First, a lack of accountability breeds a culture of impunity, and leads to further breakdown of the rule of law. Second, it is vital to promote a culture of respect for international norms and to destroy the cynicism that accepts rape as an inevitable component of war. Finally, accountability measures offer victims acknowledgement of the wrongs and harms done to them, and provide other essential forms of redress such as arrest, prosecution and punishment of the perpetrators, as well as compensation and repair.

### **Breaking the Culture of Impunity**

Perpetrators of mass rape in war have little reason to believe that they will be held accountable for their actions. Bosnian Serb leaders Radovan Karadzic and Ratko Mladic, indicted in 1995 by the International Criminal Tribunal for the former Yugoslavia for crimes against humanity and genocide, including charges of sexual assault and rape, remain at large in the former Yugoslavia more than a decade later. In April 2007, the International Criminal Court issued indictments against two Sudanese men, Ahmed Haroun, former Minister of State for the Interior, and Ali Kushayb, a *Janjaweed* leader, on a total of 51 counts of war crimes and crimes against humanity (among those counts, Haroun is charged with four counts of rape, Kushayb with two). Mr. Haroun has actually been promoted to acting Minister of Humanitarian Affairs, and is responsible for overseeing the coordination and delivery of aid to the very people against whom he is accused of committing attacks. Very few governments have come forward to assist in pressing the Sudanese Government to turn these men over to the Court, even though the UN Security made the referral to the ICC. This sends a very real message to perpetrators and victims alike that perpetrators of war crimes, including mass rape, are beyond the reach of the law.

PHR has witnessed and documented a strong desire for justice among numerous victims their families, and their communities. In some cases, it is only the knowledge that the perpetrators will be punished for what they have done that will allow the victims and communities to heal and for cycles of violence and revenge to cease. In Darfur, for example, local NGOs prosecuting rape say that they have seen dozens of courageous women, aware of the near impossibility of winning a rape conviction, who would like to bring forward cases in spite of the obstacles. Many seek a comprehensive form of justice which enables them to rebuild their broken lives and communities and live without fear.

### **Promoting Adherence to International Norms**

It is important that a country act within the bounds of international norms, including protecting women from mass rape in war. "Rogue states" not only present dangers to their own people, but also, oftentimes, threaten to weaken their neighbors and regions. The crisis in Darfur has had destabilizing consequences for neighboring Chad and the Central African Republic.

### **Compensation and Reparation**

In the past several years, courts have begun to recognize the rights of victims to compensation and reparations (including access to medical and psychological services). Therefore, accountability measures are critical so that women may have access to financial, medical and psychological support, which is also tied into acknowledgement of the guilt of the perpetrator.

## **Conclusions/Recommendations**

The failure to document, expose, and punish the perpetrators of systematic rape is tantamount to giving license to those who orchestrate such atrocities and those who participate in them.

U.S. government aid efforts funded by the Congress have played an important role in increasing the capacity of the humanitarian community to assess and respond to systematic sexual violence in conflict, and progress has definitely been made in international prosecution efforts. However, mechanisms for promoting the rule of law with regards to sexual violence before and after conflicts, reporting and documentation of sexual violence during armed conflicts, treatment, advocacy, and restitution receive insufficient attention or resources.

The U.S. government should work to ensure that the U.N. and other international actors always incorporate an assessment of sexual violence when monitoring threats to civilians in a conflict or post-conflict situation. Staff should be trained on awareness of rape as a war crime, and given clear protocols to follow in recognition that documentation is a crucial element to advocating for the victims. Physicians for Human Rights recommends that those involved in protection efforts, such as peacekeeping forces, humanitarian aid organizations, local and international NGOs, and other relevant actors incorporate best practices for responding to rape as a weapon of war into their work. These include:

### **1. Prevention**

Rape as a weapon of war must be stopped in its course, rather than assuming that it will be an inevitable byproduct of conflict. The US Government should support mechanisms that help prevent sexual violence, such as supporting interventions by international peacekeeping and protection forces where appropriate, identifying the perpetrators and those supporting campaigns of systematic rape, and publicly sanctioning governments that fail to protect victims of rape and/or refuse to investigate, disarm and prosecute perpetrators.

### **2. Protection**

All too often, the systems that have been developed to protect civilians are simply not being deployed or are not being deployed effectively. The US must provide more support for diplomacy, intervention, and enforcement as laid out in the tenets of the Responsibility to Protect by the International Commission on Intervention and State Sovereignty. For example, for the past six years the international community has failed to protect vulnerable women and girls in Sudan despite credible accounts of widespread and systematic rape. As a matter of urgency, the US must ensure that international protection forces in Darfur and elsewhere have the necessary means to fulfill their mission.

### **3. Documentation**

The US should support efforts to:

- Build the capacity of local and international responders to safely document and publicly report on sexual violence in a manner that does not endanger individual victims or humanitarian workers and their agencies.
- Encourage and support more collaboration between humanitarian groups and human rights organizations to address challenges in documenting and reporting these crimes.

### **4. Justice and Accountability**

- Support justice and reparations for the victims
  - o Where possible, strengthen local justice systems by improving rape laws, enhancing protection for victims who come forward, and supporting local efforts to hold perpetrators accountable (including truth and reconciliation commissions, special courts for the prosecution of rape as a war crime, and restitution efforts).
  - o Support the international system of legal accountability, which will be necessary when local justice systems are incapable of prosecuting crimes that fall under the Rome Statute of the ICC. The arrest

warrants issued by the ICC for Haroun and Kushayb for war crimes and crimes against humanity including mass rape in Darfur, for example, should be given top priority.

- The United States Government should facilitate the ability of victims of systematic rape during war to seek asylum in the US via the following:
  - Enact legislation stating that in cases in which sexual violence is being perpetrated by any party to an armed conflict, there be a presumption that rape took place on one of the five protected grounds for asylum (in which the asylum applicant has a well-founded fear of persecution based on race, nationality, religion, political opinion, or membership in a social group).
  - Repeal the one-year bar on asylum applications in recognition of the undue burden that it places on survivors of severe trauma such as rape during war, and more generally to all asylum seekers.

## **5. Treatment and Remedy**

Given the magnitude of this crisis and the enormous needs of survivors for medical care and trauma recover, the US should assess and commit to support international and local responses. PHR urges the US Government to:

- Increase funding for addressing the immediate long-term needs of victims, including providing them with medical care, culturally appropriate mental health care, skills training, and compensation. In particular support the capacity of indigenous women and organizations to work and lead in these areas.
- Increase funding and support for programs to rebuild communities in the aftermath of systematic rape, recognizing that there are specific needs for both the community and for the victims of sexual violence. Programs should incorporate community education and advocacy programs to help combat the stigma associated with rape survivors and their children.
- Compel governments responsible for rape in war to provide reparation to the victims, and provide financial support to the Victims Trust Fund established by the International Criminal Court.
- Disarmament, Demobilization, and Reintegration programs for ex-combatants must include re-socialization and sexual violence education. Women should be involved in all DDR efforts.
- Develop a better understanding of perpetrators' motivations and the patterns that are associated with systematic rape as a weapon of war.

Please visit Physicians for Human Rights' website at: <http://physiciansforhumanrights.org>  
They are involved in many important issues including torture, mass atrocities, rape in war, and persecution of health workers.

Physicians for Human Rights shared the Nobel Peace Prize in 1997 for the International Campaign to Ban Landmines. PHR, with five other NGOs, set-up the International Campaign to Ban Landmines.