

Sexual Violence and its Consequences: a Human Rights Approach



Sexual violence has been a tool of subjugation.

Rape is used to brutalize and humiliate women, as a weapon of war and political power and as tactic in campaigns of ethnic cleansing.



International law on Sexual Violence.

- ▶ Universal Declaration of Human Rights
- ▶ The Geneva Conventions
- ▶ International Convention on Civil and Political Rights
- ▶ Convention Against Torture and Other cruel, Inhuman and Degrading Treatment
- ▶ Convention on the Rights Against the Child
- ▶ Convention on Elimination and Discrimination Against Women.



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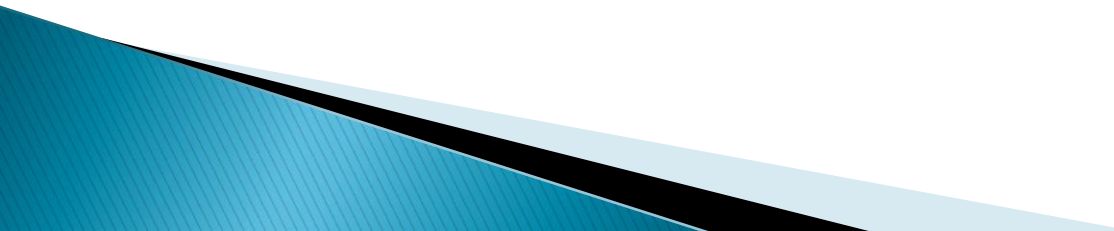


- ▶ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
- ▶ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others
- ▶ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (supplementing the UN Convention against Transnational Organized Crime)

Declarations and Plans

- ▶ Vienna Conference on Human Rights 1993
- ▶ Beijing Platform for Action 1995
- ▶ Program for Action on ICPD, Cairo
- ▶ Security Council resolutions and declarations condemning sexual violence in Rwanda, Former Yugoslavia, Sierra Leone, East Timor, Japan, Haiti, Myanmar, Afghanistan (DRC now under discussion)
- ▶ The Special Rapporteur on Violence Against Women

Regional Instruments

- ▶ The Protocol to the African Charter on human and Peoples rights on the rights of Women in Africa
 - ▶ SADC Declaration on Gender and Development 1997 and the Addendum on the Eradication of All Forms of Violence Against women and Children 1998
 - ▶ The ICGLR Protocol on Prevention and suppression of Sexual violence Against women and children Dec 2006
 - ▶ Maputo Plan of Action.
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Jurisprudence on International tribunal on sexual Violence

- ▶ International Criminal Tribunal for Rwanda - *P v Akayesu*
- ▶ 2. International Criminal Tribunals for the Former Yugoslavia. *P v Delalic* (*Celebici Judgement*)
- ▶ 3. Rome Statute of the International Criminal Court

UN Security council

Resolution 1325/2000

- **An urgent call to end impunity for sexual violence;**
- **UN system to gather information and report to Security Council**

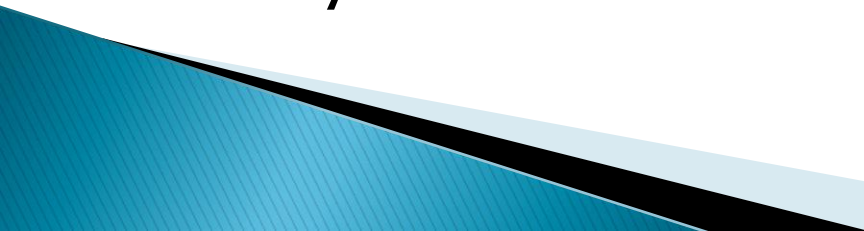
Resolution on June 19th 2008

Sexual violence in conflict and post conflict on the Council's agenda;

Security Council can intervene, including through sanctions, where the levels of SV merit it;

The Secretary General of the UN to provide a comprehensive report on the extent to which resolution is implemented and to improve flow of information on SV to the Council

National Legislation

- ▶ **The Constitution; Normally the Supreme Law of the Land**
 - ▶ Human dignity
 - ▶ Right to life
 - ▶ Prohibition of torture and inhuman or degrading treatment
 - ▶ Right to security of the person and bodily integrity
 - ▶ Right to Health
 - ▶ Right to Equal treatment and non-discrimination
 - ▶ Duty to combat sexual or domestic violence
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- ▶ Most countries in Africa have laws against Rape (Penal Code, Criminal Procedure Code, Criminal Amendment Act, Evidence Act etc).
- ▶ The most are colonial – pre-dating 1920

With no treatment and rehabilitation for victims

- ▶ Sentences lenient
- ▶ Associated with morals and not consent
- ▶ Do not differentiate variables in sexual assault

Traditional remedies

- Compensation to victims family – undermines criminal sanctions; (encourages withdrawal)
- Marrying off the victim to perpetrator – ignores the rights and justice due to the victim
- Fines – that often don't put value to harm done

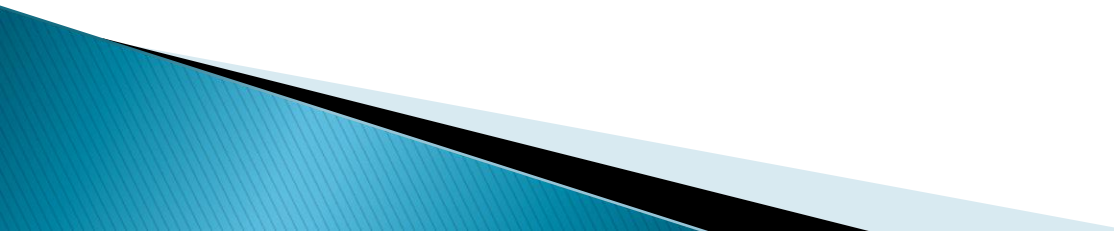
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- Punishment of the victim (family honor, shame,)
- Past traditional practices -Ex communication or expulsion, death by fire or drowning etc

Conflict situations



- ▶ There are as many as **33 million** refugees and internally displaced people around the world. An estimated **80%** of these are women and children. Of these women of child bearing age(15–45) are approximately **20–25%** and are pregnant at any given time and at least **15%** will suffer complications from pregnancy and childbirth.

- ▶ The International Community has identified several crucial areas in RH that relief agencies should be prepared to address in conflict settings:
 - ✓ Pregnancy related injury and death including safe abortion
 - ✓ Unwanted pregnancy,
 - ✓ Sexual violence
 - ✓ Sexually transmitted infections and HIV/AIDS.
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Why Unsafe Abortion?

- ✓ Women/Girls sexually violated against may fall pregnant
- ✓ Women in refugee camps/displaced women faced with a drastic uncertain future with little or no family left, no community support, no monetary support etc

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- ▶ The tendency for women who have become pregnant from rape being rejected by their husbands and communities
- ▶ Lack of awareness of, and access to, quality services among women and girls who need them

Pregnancies arising from Sexual Violence.

Most legislation is silent as to the choices a woman has if she becomes pregnant as a result of a sexual offence.

It is not uncommon to find pregnant minors in Kenya.

Are these pregnancies legitimate within the law?

What options do minors have?

What is the service provider allowed to do under these circumstances?

Summary of the continental framework.

Integration of sexual and reproductive health services in primary health care.

Repositioning family planning

Providing and promoting youth-friendly services

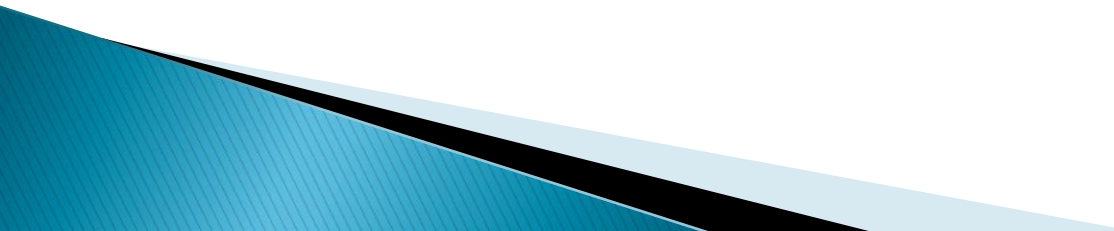
Unsafe abortions

Quality safe motherhood

Resource mobilization

Monitoring and Evaluation

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- ▶ Based on the continental policy framework for SRH, women conceiving from sexual offences have a right of choice.
 - ▶ S&Gs for service delivery are however lacking and it is not known the kind of services these survivors currently get.
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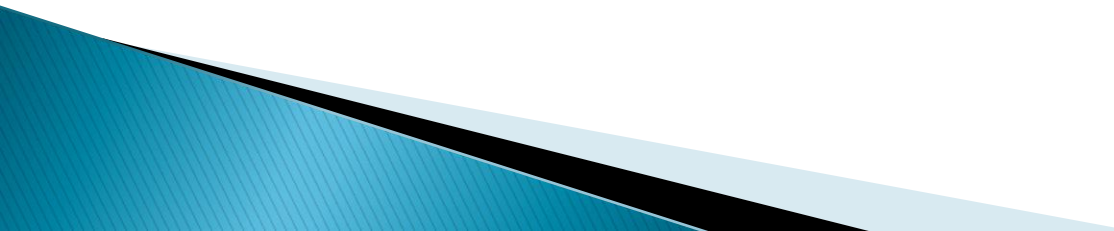
What are we doing!

- ▶ As women what are we doing to save lives of our sisters, mothers, daughters in conflict situations who do not have RH services?
- ▶ Why do we as human rights activists, policy makers force women/girls to carry pregnancies as a result of SV to term? If the act of SV is not legitimate, is the pregnancy as a result of SV legitimate?
- ▶ Why would we allow women/girls to die or suffer disability from unsafe abortions knowing that its totally preventable ?It is a double tragedy for a woman to be raped then have an unsafe abortion.

Recommendations:

- ▶ Harmonize national laws and policies regulating management of unwanted pregnancy resulting from sexual offences.
- ▶ Enact laws to enforce international commitments to a rights based approach to SRH, especially the right to choice in cases of unwanted pregnancy
 - It is immoral and a double tragedy for a woman to opt for unsafe abortion after rape, incest or defilement.
- ▶ Enact laws and policies that enhance the wellbeing and positive living for women infected with HIV following sexual offences

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- Have help desks at health clinics, with ‘buddy advocates’
 - Have Integrated health services, with links to police
 - Strengthening police responses, with links to health etc
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- ▶ Have a sexual violence desk with a woman to attend to the survivors .
 - ▶ Create Strong links between medical and police facilities to enable incidents to be referred in either direction.
 - ▶ Have an efficient Judicial system with sensitized judges and clean of corruption.
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