

Combating Conflict-Related Sexual Violence in the Great Lakes Region

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1. Introduction (subject matter and my involvement at institutional level):

- Began journey to support truth-seeking, accountability and reparation for widespread and systematic atrocities and gross human rights violations committed in the aftermath of the 2007-08 post-election violence over 10 years ago. This journey has seen me get involved in numerous processes including:
 - Investigations and documentation of violations in the immediate aftermath of the violations with KNCHR, resulting in a report and database that influenced the establishment of critical mechanisms and processes for accountability – CIPEV, TJRC
 - Reflections, research and consultations with a broad range of state and non-state actors to identify strategic measures for practical realization of accountability and reparation through implementation of the CIPEV and TJRC reports – criminal court, special tribunal, complementarity
 - Recognition of the “forgotten victims” of sexual violence - through domestic strategic litigation (ongoing case on PEV-related sexual violence in the Constitutional Court – Petition No. 122 of 2013)
 - Documentation of victims needs and priorities for reparations through research and surveys (ICTJ report – “To Live as Other Kenyans Do)
 - Support critical thinking on inclusion of appropriate reparative measures for survivors of sexual violence
 - Research and programming to support state and non-state actors in establishing preventive measures and enhancing their capacity to effectively respond to
 - PHR program on sexual violence in conflict zones: capacity development for health professionals, law enforcement, prosecutors, judicial officers, community actors on collection, documentation, preservation, application of medical forensic evidence to enhance accountability for sexual violence in conflict
 - Ongoing gap analysis on state measures to prevent and respond to election-related sexual violence – patterns of election-related sexual violence in 2007/08 - 2017

2. Key achievements, challenges and lessons learned from experiences in the region:

- a. Robust legal and policy framework – commitments and principles to prevent and respond to conflict-related sexual violence e.g. reflected in the ICGLR 2006 Protocol and 2011 Kampala Declaration; emergence of domestic laws for investigation and prosecution of sexual offences

as domestic, transnational and international crimes; establishment of special divisions e.g. in Uganda, mobile courts in DRC, special divisions within Kenya's ODPP etc.

b. Critical gaps lie in the following areas:

- a. Inadequate measures to address underlying stereotypes that fuel sexual violence as a form of gender-based discrimination and other factors that motivate conflict and sexual violence therein, not only against women and girls, but also men and boys – critical challenge in lack of gender-inclusive policies; lack of gender-inclusive strategies, and failure to monitor impact of education, awareness and primary preventive measures – reflected in state action plans including disaster preparedness, contingency plans
- b. Inadequate capacity and budgetary allocation for effective implementation of state commitments to prevent, investigate, prosecute, provide protective measures and reparation to victims of sexual violence – challenge of devolved governments and allocation of resources
 - i. Insufficient number of competent personnel with relevant skills, knowledge and attitudes to manage sexual violence cases and survivors in all sectors
 - ii. Inadequate facilities, goods, commodities and equipment for timely and comprehensive health care, investigations, psychosocial support
 - iii. Lack of protocols, guidelines, SOPs for effective management of SV cases and documentation of
- c. Poor multi-sectoral coordination and collaboration; ineffective enforcement and oversight for proper referral pathways throughout the protection and justice chain
- d. Weak data collection, monitoring and evaluation systems to identify progress, challenges and inform policy direction
- e. Lack of accountability and reparation for survivors of sexual violence – fuels impunity for contemporary and conflict-related sexual violence; failure to meet required standards and principles for state obligation to provide reparation to victims and survivors of conflict-related sexual violence and their families and dependents
- f. Lack of oversight mechanisms to ensure effective implementation and enforcement of state commitments, advisory on how to address gaps and challenges – institutions with enforcement mandates, beyond coordination and policy oversight

3. Key recommendations

- a. States should establish focal points and institutions with an oversight mandate to ensure effective implementation of commitments in the ICGLR 2006 Protocol and Kampala Declaration – with authority to require compliance and enforcement, beyond

coordination and policy development; oversee data collection, monitoring and evaluation, and assess progress and impact over time, gaps and provide policy direction

- b. States should apply the due diligence standard to establish practical measures that are appropriate to their various contexts toward meaningful and impactful realization of their commitments to prevent, investigate, prosecute, punish conflict-related sexual violence in the Great Lakes Region – using appropriate means that are likely to achieve tangible outcomes – beyond laws and policies to effective implementation
 - i. Provision of adequate budgetary allocations for prevention and response to conflict-related sexual violence – specifically itemized within national and county governments budgets; and tracked annually to ensure continuous advancements (ensure that there is progress vs. stalling or non-retrogression)
 - ii. Deliberate capacity development programs that are competency based -focused on skills, knowledge and attitudes; with clear policies for retention of trained personnel, and continuous capacity development
 - iii. Resource allocation to enhance collection, documentation, preservation of medical forensic evidence for sexual offences, including provision of appropriate protocols, rape kits, integrated medico-legal services etc.
- c. Deliberate steps to put in place programmes – proactive, sensitive, survivor-centered – for the registration of survivors of conflict-related sexual violence; and provision of timely, holistic, appropriate and transformative reparation measures – including compensation, rehabilitation, symbolic measures, and structural reforms
- d. Establish specific codes of conduct to ensure effective investigations and accountability for sexual offences committed by state actors, particularly law enforcement officers, during conflict, civil strife or election-related violence. Such measures should ensure that security officers can be held accountability through command responsibility even when the direct perpetrators cannot be identified.