**Documenting** 6

**Sexual Violence**

Violence against women, sexual violence in particular, is neither an accident of war, nor an incidental adjunct to armed conﬂicts. Individual and historical accounts, court testimony, and NGO reports all testify to the readiness with which parties to a conﬂict resort to violence against women in the conduct of warfare. Its widespread use in armed con- ﬂicts reﬂects the individual, political and military gains it gives the perpetrators, and the terror it holds for women and their communities. All acts of sexual violence constitute a weapon of war that is being used for one or several purposes: rewarding soldiers, spreading political terror, destabilizing a society, intimidating, humiliating, and extracting informa- tion and as a method of ‘ethnic cleansing’.

These acts of violence and domination are committed within a context characterized by the breakdown of the policing or judicial system, of the family or of the community, all of which may have provided women some degree of protection or redress before the conﬂict erupted. In fact, in many situa- tions, the breakdown of these mechanisms and networks may prove to further increase women’s vulnerability to sexual violence, as perpetrators are likely to be found not only within the regular armed forces, but also within paramilitary groups, the police or the community. Evidence from camps for displaced persons also indicate that armed conflicts and ﬂight are likely to result in an increase in violence against women within the family, while an overall situation of deprivation means that women take more risks to feed

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their family and may ‘submit’ to non-consensual sexual rela- tions out of pressure or necessity.

CRIMES OF SEXUAL VIOLENCE

* Under customary international law, rape and other forms of sexual violence committed by any parties to a conﬂict, whether international or non-international, constitutes **torture**.
* Rape and other forms of sexual violence by combatants in the conduct of both types of armed conﬂict are now recog- nized as **war crimes**, most recently in the Rome Statute of the International Criminal Court.
* When acts of sexual violence are committed on a systematic basis or a large scale, or, as upheld in the Rome Statute, when they are committed as part of a widespread or sys- tematic attack directed against any civilian population, they are considered as **crimes against humanity**.
* Acts of sexual violence constitute **a grave breach of the Geneva Conventions.**
* Sexual violence may also constitute an element of **geno- cide.**
* In all the above cases, acts of sexual violence are subject to **universal jurisdiction.**

The consequences of sexual violence remain for years, some- times an entire lifetime. They include psychological trauma, wounds, maiming, children resulting from rapes, infertility and life-threatening diseases. To the absence of readily avail- able medical care and medical consequences should be added social pressure and stigmatization of the victims and the political unwillingness or inability to address violence against women. These dynamics persist long after the conﬂict has ended, further contributing to the trauma, alienation, and the sense of injustice that women experience.

The consequences of sexual violence are further explored in Chapter Nine of this manual on post-conﬂict situations. But knowledge of these consequences should guide every step of your work, from monitoring the status of women and allegations, interviews of the victims and witnesses, to assessment of the information.

### Deﬁnitions

Sexual violence includes many different types of acts, such as rape, indecent assault (i.e. fondling a woman’s breasts), sexual slavery, forced marriage, forced impregnation and forced maternity and sexual mutilation.

Acts of sexual violence are prohibited under both interna- tional human rights law and humanitarian law.

The Geneva Conventions do not deﬁne what constitutes sexual violence. Human rights law provides deﬁnitions of some acts of sexual violence, such as slavery, but not of others, such as rape.

This situation, however, evolved considerably in the 1990s with the judgements of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Cri- minal Tribunal for Rwanda (ICTR), and with the negotiation and adoption of the *Rome Statute* for the International

Criminal Court (ICC), and the ensuing work in determining the Rules of Procedures and Evidence for each of the crimes identiﬁed by the *Rome Statute*. The deﬁnitions arising from the work of the ICTY and ICTR and those included in the *Rome Statute* are especially useful to your documentation work and have ﬁlled a fundamental international legal gap.

#### Rape

The ICTR, in its Akayesu decision of September 2, 1998, has provided the international community with the widest interpretation of the crime of rape at the time of writing and one which is considered hard law, that is, binding on the parties. The court further noted that coercive circum- stances did not need to be proven by a show of physical force. Threats, intimidation, extortion and other forms of duress that prey on fear or desperation could be considered coercion.

DEFINITION

Rape consists of a physical invasion of a sexual nature, com- mitted on a person under circumstances which are coercive. Sexual violence, including rape, is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.

The ICC has deﬁned rape as the invasion of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. The invasion must be committed by force, threat of force, coercion, by taking advantage of a coercive environment, or against a person incapable of giving genuine consent.

#### The key elements to keep in mind are that (i) rape may include vaginal, anal or oral penetration; (ii) a single act of rape is sufﬁcient to be prosecuted and to constitute a war crime; (iii) a coercive environment is not limited to the use of physical force but may include threats, intimidation, extortion, etc.

**Example:** Sierra Leone

*Mariatu* (not her real name)*, now aged 16, was abducted from the village of Mamamah, some 40 kilometres from Freetown, as rebel forces retreated from the capital in Janu- ary 1999. Both her parents were killed by rebel forces when they attacked the village. Mariatu was repeatedly gang-raped by a number of rebels. If she attempted to resist rape she was denied food and beaten.*

*Often victims of rape have suffered further brutality, includ- ing having objects inserted into their vaginas. A 14-year-old girl was stabbed in the vagina with a knife because she had refused to have sex with the rebel combatant who abducted her. Another woman had small pieces of burning ﬁrewood put into her vagina. One 16-year-old girl was so badly injured after repeated rape that, following her escape, she required a hysterectomy. Beatings have been common and most victims who have subsequently been released have bruising.* 61

**Example:** Chechnya

*“Musa” witnessed a 14-year-old girl being raped by a dozen prison guards in the corridor outside the cells in which he and other detainees were held. The girl had come to visit her detained mother and for the price of 5,000 roubles she was permitted a ﬁve-minute meeting. Her ﬁve-minute meeting*

1. Amnesty International, *Sierra Leone: Rape and other forms of sexual violence against girls and women*, London: AI, 2000 (AI Index: AFR 51/35/00).

*became a four-day ordeal during which she was locked in a cell, beaten and repeatedly raped by guards.*62

#### Sexual Slavery

According to the 1926 Slavery Convention, slavery should be understood to be the status or condition of a person over whom any or all the powers attached to the right of ownership are exercised, including sexual access through rape or other forms of sexual violence.

The ICC deﬁnes the crime of ‘enslavement’ as the exercise of any power related to the right of ownership over a person, including in the course of trafﬁcking in persons, in particu- lar women and children. Sexual slavery is not speciﬁcally deﬁned in the ICC Statute.

Although the ICC does not detail the crime of sexual slav- ery, prosecutors for the ICTY have sought to indict eight men on various grounds, including on the grounds of sexual slavery, in the so-called Foca indictment, ﬁrst issued on June 26, 1996. At the time of writing, the judgement, and the deﬁnition of sexual slavery, were not yet known.

The circumstances leading to the Foca indictment are de- scribed in this section, along with a description of sexual slavery in another context, that of the Northern Uganda conﬂict.

The review of both situations allows some conclusions to be drawn regarding the crime of sexual slavery.

Sexual slavery consists of women and girls being the prop- erty of one or several persons and forced to engage in sexual acts with their owner or owners.

1. Amnesty International, *Chechnya: Rape and torture of children in Chernokozovo “ﬁltration camp”*, News Service: 056/00; AI INDEX: EUR 46/19/00; March 23, 2000.

**Example:** Foca, Former Yugoslavia

Se*xual assaults, rapes, gang rapes and humiliation were a daily occurrence from the outset of their detention [. ] they*

*found themselves in different numbers at different houses, moved to and from, but they would always have to serve the men sexually as well as to perform hou*sehold chores.63

As they are considered ‘property’, their ‘owners’ may sell, barter, or lend them to others to provide sexual services or for forced labour.

**Example:** Foca, Former Yugoslavia

*Usually the girls and women were taken out from the de- tention centres, were kept for a couple of hours and then returned. But while most women were eventually transferred to Montenegro and released mid-August 1992, several girls and young women were kept as slaves in different houses and apartments up to February 1993. They had to perform household chores and were kept as private property of some of the men. Some of them were eventually sold to Montene- grin soldiers who, again, kept them as slaves.*64

The sexual slavery of women and girls is regulated and organized.

**Example:** Foca, Former Yugoslavia

*The testimonies of witnesses showed that the soldiers would mostly come at night to select women and girls when they were off-duty from ﬁghting on the front line or mopping up surrounding villages. Not every soldier, however, was allowed to do so. There are indications that soldiers needed permis-*

1. From Amnesty International, *Bosnia-Herzegovina: How can they sleep at night?*, September 1997 (Index: EUR 63/022).
2. Ibid.

*sion from either the Chief of Police in Foca or from their paramilitary leaders, who were in charge of the houses in which the girls and women were raped.*65

The enslavement of women and girls is preceded by their ab- duction, and the use of various forms of violence against the victims and others, including killings of family members.

**Example:** Northern Uganda

*“One afternoon [in 1996], the rebels came and asked for my two children, a boy and a girl. My daughter was 14 years old and had already developed breasts. My son was 13 years old. My daughter was captured and remained with the rebels for 2 days. My son remained in the bush for 2 months and was rescued [by the UPDF (Uganda People’s Defense Force)] after an ambush [...]The day the rebels captured my children they beat me terribly and raped me. There were many of them. I was left unconscious in my compound. [...] My daughter was raped as well: the commander took her as his wife the same day she was abducted.”*66

Sexual slavery is often accompanied by forced labour, includ- ing domestic chores. In some situations, women and girls are also forced to ﬁght**.**

**Example:** Northern Uganda

*Life with the rebels is one of unremitting hardship and priva- tion for both girl and boy abductees. It begins immediately following the abduction when the newly captured children are forced to carry heavy loads that have just been looted from the villages or are part of the typical logistical equipment*

1. Ibid.
2. Amnesty International, *Uganda: Breaking God’s Commands : The Destruction of Childhood by the Lord’s Resistance Army*, 1997 (AI Index : AFR 59/01/97).

*of armed forces, including cooking pots, water, jerrycans, clothes, etc. Whether in Sudan or Uganda, both boys and girls are expected to provide domestic services, including carrying heavy loads, cooking, fetching water and wood, etc. After military training, girl soldiers continue to provide domestic services, whether in military campaigns or not, assisted in their tasks by newly abducted girls and boys.*67

In some cases, as in Northern Uganda or Sierra Leone, sexual slavery of women and girls may also involve them being forced to marry their owners.

**Example:** Sierra Leone

*Studies by UNICEF have shown that 75% of abducted girls and young women have been sexually abused; other esti- mates put the ﬁgure at 90%. In some cases girls and women have been forced to become the sexual partner or ‘wife’ of a single combatant. In other cases they have been abused by several combatants.*68

#### Other Acts of Sexual Violence

**Forced pregnancy** is deﬁned in the *Rome statute* as the unlawful conﬁnement of a woman forcibly made pregnant with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.

**Example:** Foca

*Fikreta’s four-year-old daughter was also taken with her; she was able to watch through an open door as her mother was stripped, searched for valuables, and as a pistol was put*

1. Ibid.
2. Amnesty International, *Sierra Leone: Rape and other forms of sexual violence against girls and women*, London: AI, 2000 (AI Index: AFR 51/35/00).

*to her head. She reported that she was then raped by four men. “They told me they would like us to give birth to Cetnik children [...] They told me ‘we will do everything so that you never even think of returning’.”* 69

**Persecution:** According to the *Rome Statute*, gender-based persecution involves the intentional and severe deprivation of fundamental rights by reason of the victim’s gender [*Rome Statute*, Articles 7(1)(h) and 2(h)]. Gender persecu- tion may be based solely on gender or be combined with other grounds, such as political opinion or ethnicity. Per- secution may involve acts which, in and of themselves, are less atrocious than other crimes, but when taken together amount to an extreme deprivation of fundamental rights so as to reach the level of a crime against humanity. The crime of persecution must be “in connection with any act referred to in [the crimes against humanity section under the Rome Statute] or any crime within the jurisdiction of the Court.”

**Example:** Afghanistan

The most extreme example of gender-based persecution is the sexual apartheid regime maintained by the Taliban in Afghanistan.

#### Enforced Sterilization

According to the *Rome Statute*, enforced sterilization oc- curs when the perpetrator deprives one or more persons of biological reproductive capacity which was not justiﬁed by medical or hospital treatment or carried out with the victim’s genuine consent.

1. From Amnesty International, *Bosnia-Herzegovina: How can they sleep at night?*, September 1997 (Index: EUR 63/022).

#### Examples

Direct deprivation of reproductive capacity would include forcing women to undergo hysterectomies. Indirect depriva- tion could include affecting women’s reproductive health through the deployment of chemical weapons, nuclear weapons testing, or environmental damage.

According to the *Rome Statute*, other acts of sexual violence consist of the perpetrator carrying out an act of a sexual nature with one or more persons, or causing such persons to engage in an act of a sexual nature by force, threat of force, coercion, or by taking advantage of a coercive environment or of such person’s inability to give genuine consent.

**Examples:** fondling a woman’s breasts or other parts of the body, forced nudity, etc.

#### Coercion

Coercion includes fear of violence, duress, detention, psy- chological oppression or abuse of power. Thus, the crime of rape could include situations in which the victim submits to a sexual act to avoid harm, to obtain the necessities of life, or for other reasons that have effectively deprived her/him of the ability to consent.

**Example:** Sierra Leone

*Girls and women abducted by rebel forces have been raped as a matter of course. Many have been threatened that they would be killed if they tried to resist rape. One rape victim quoted the combatant who abducted her as saying: “You don’t understand. This is the reason we go and capture you people. If you don’t sleep with me today, I’ll kill you.”*70

1. Amnesty International, *Sierra Leone: Rape and other forms of sexual violence against girls and women*, London: AI, 2000 (AI Index: AFR 51/35/00).

**Example:** East Timor

“*Indonesian academic George Aditjondro [...] has conducted extensive research on the social and environmental impact of Indonesia’s invasion of East Timor. He concluded that circumstances surrounding the military occupation have re- sulted in sexual harassment being rife. Aditjondro’s research led him to conclude that the more prevalent form of sexual relations between soldiers and East Timorese women was as a result of military pressure*.” 71

### Speciﬁc Cases

#### Systematic rape and sexual enslavement in Foca 72

The conﬂict in Foca, a town in the south of Bosnia-Herze- govina near the border with Montenegro, began in early April 1992. As Bosnian Serb and Yugoslav armed forces took control of the town and surrounding villages, Bosniacs (Bosnian Muslims) and Bosnian Croats were rounded up and arrested or kept conﬁned in their homes. Men were taken to a number of detention centres, including one where hun- dreds if not thousands were detained, the *Kazneni Popravni Dom* (KPD) prison in Foca; many are still ‘missing’ from that prison, although it is likely they were killed. Women and girls were held in those centres as well as in places organized speciﬁcally for sexual enslavement or rape.

One place where scores of women, children, and the elderly were held in inhuman conditions was the Partizan Sports Hall. According to testimony of those who were detained

1. Amnesty International, *Women in Indonesia and East Timor*, ASA 21/51/95, p.14.
2. Source: Amnesty International, *Bosnia-Herzegovina: How can they sleep at night?,*

September 97 (index: EUR 63/022).

there, women were taken every night to be raped, both within the premises of the Partizan Sports Hall and to other locations. Furthermore, women and girls who were injured because of sexual abuse or because of beatings received no medical care, the prisoners were denied blankets or towels and given only meagre amounts of food. Two women report- edly died there due to beatings.

One 12-year-old girl was detained at the Partizan Sports Hall in August 1992. During her 10-day detainment, she said that she was taken from the centre 10 times to be raped; her mother was taken twice.

One night in September, a group of Bosnian Serbs took a group of women and their children from the Partizan Sports Hall to a nearby apartment building; three of them were Sanela, Fikreta and Nusreta [these names are pseudonyms; their real names are known to AI]. Sanela reported: “I was raped by two of them. Then they brought in more *Cetniks*73 who wanted to rape me. I said no. They said that they would throw my child out the window. I cried and screamed, and they did nothing.”

Rape was a systematic practice in Foca. The ICTY has issued an indictment against eight men, several of whom are al- leged to have directly participated in the repeated rapes over several months of two victims who were allegedly detained and repeatedly and systematically raped for more than six months. Both were held in numerous detention centres, including the Buk Bijela settlement, the Foca High School and the Partizan Sports Hall (where they were held

1. Cetniks were Serbian fascists in the Second World War. Although some Serb paramilitary troops used the term to refer to themselves in the recent conﬂict, most ﬁnd the term derogatory. The term is also sometimes used to distinguish Bosnian Serbs supportive of Republika Srpska from those loyal to the Federation of Bosnia-Herzegovina.

with scores of other detainees), as well as being held in sexual enslavement with several other women in private residences, including Nusret Karaman’s house and an apart- ment in the Brena apartment complex.74

The eight men indicted by the Tribunal are accused of com- mitting gang rape, systematic rape, sexual assaults, torture and enslavement of Bosnian women and girls. According to the indictment, “Acts of forcible sexual penetration of a person, or forcing a person to sexually penetrate another [...] can constitute an element of a crime against humanity, violations of the laws and customs of war, and a grave breach of the Geneva Conventions.” 75

This is the ﬁrst trial at the ICTY in which the rape and sexual enslavement of Bosnian Muslim women was seen as a crime against humanity. In previous cases, rape has been regarded as a violation of the rules or customs of war. In his opening statement, prosecutor Dirk Ryneveld stated, “What happened to these Muslim women occurred purely because of their ethnicity and their religion and because they are women.”

The trial of three of the indicted men began on March 20, 2000. The three are jointly accused of 33 counts of crimes against humanity and violations of the rules and customs of war, and charges against them include rape, torture, enslavement and deprivation of dignity.

All three men are accused of personally committing rape, and of bringing women to locations where they were raped by others, and of taking part in an organized campaign

1. Information from the indictment of eight people conﬁrmed on June 26, 1996 by the Tribunal, Case No. IT-96-23- I.
2. Foca indictment, at paragraph 4.8.

of rape of Bosnian Muslim women in Foca. Several of the women who were raped have already testiﬁed at the ICTY; others are testifying in secret to guard their identity and to protect them from retribution from other indicted men still at large, or their associates.

Extract from the ICTY Indictment

COUNTS 45-48

**Enslavement and Rape of FWS-75, FWS-87 and Seven Other Women in Karaman’s House**

* 1. Pero Elez, a Serb paramilitary leader in a position of regional authority commanded an elite unit of Vukovar ﬁghters. Pero Elez’s headquarters were in the Miljevina Hotel. On 2 August 1992, Dragoljub Kunarac, in concert with Pero Elez, took FWS-5, FWS-87 and D.B. from the Montenegrin headquarters in Foca to the Miljevina Hotel because the women had spoken to journalists the day before about the living condi- tions in Partizan Sports Hall. Pero Elez ordered the detention of the three women in a house, which was close to the Hotel [...] Some were as young as twelve and fourteen years of age. The number of women and girls detained at Karaman’s house between 2 August 1992 and at least until 30 October 1992 totalled nine. RADOVAN STANKOVIC, a soldier from the elite unit commanded by Pero Elez, was in charge of Karaman’s house after the death of Pero Elez. RADOVAN STANKOVIC ran Karaman’s house similar to a brothel.
	2. In contrast to Partizan Sports Hall, the detainees at Kara- man’s house had sufﬁcient food. They were not guarded or locked inside the house. The detainees even had a key they could use to lock the door and prevent soldiers, not belonging to Pero Elez’s group, from entering. The detainees were also given the telephone number of the Miljevina motel, and were told that they should call this number if any soldier without authorization tried to enter the house. When

the women did call this number, either RADOVAN STANKOVIC or Pero Elez would come to prevent other persons from enter- ing the house. Although the detainees were not guarded, they could not escape. They had nowhere to go as they were surrounded by Serbs, both soldiers and civilians.

* 1. FWS-75 and FWS-87 were detained in Karaman’s house between or about 3 August until or about 30 October 1992, together with 7 other women. Pero Elez treated the women as his personal property.
	2. During the entire period of their detention at Karaman’s house, FWS-75, FWS-87 and the other female detainees were subjected to repeated rapes and sexual assaults at night. All the perpetrators were Serb soldiers who belonged to Pero Elez’s group. Among the soldiers who frequently raped FWS-75 and FWS-87 (vaginal and anal penetration) was RADOVAN STANKOVIC.
	3. The ﬁrst time both women were raped in Karaman’s house was on or about 3 August 1992, shortly after their arrival. An unidentiﬁed soldier raped FWS-75 (vaginal penetration) while RADOVAN STANKOVIC raped FWS-87 that day.
	4. In addition to the rapes and other sexual assaults, all the female detainees were forced to work for the Serb soldiers, washing uniforms, cooking and cleaning the house. FWS-87 was taken three times from Karaman’s house to other build- ings in Miljevina. On these occasions, she was forced to clean rooms in the buildings, cook for the soldiers and paint the window-frames. On one of the three occasions, when she was taken out with another woman, two Monte- negrin soldiers sexually assaulted both women.
	5. At Karaman’s house, the detainees constantly feared for their lives. If any woman refused to obey orders, she would be beaten. Soldiers often told the women that they would be killed after the soldiers were ﬁnished with them because

they knew too much. FWS-87 felt suicidal during the entire time of her detention in Karaman’s house.

8.8 By the foregoing acts and omissions, RADOVAN STANKOVIC committed:

COUNT 45 (Enslavement)

Count 45: Enslavement, a CRIME AGAINST HUMANITY pun- ishable under Article 5 (c) of the Statute of the Tribunal.

#### 2.2 Rape and sexual slavery

**in the northern Uganda conﬂict** 76

Both boys and girl abductees are human livestock owned by the Lord Resistance Army (LRA) leadership, but within the strict and hierarchical organizational structure of the rebels, girls and women, as a group, are at the bottom; they are chattel denied every right, and subjected to forced marriage amounting to institutionalized rape.

The right of ownership over the girls and women is exer- cised ﬁrst by Kony himself, as the supreme leader of the LRA, followed by the leader and commanders of the group who abducted the girls, and then the boy or man to which the girl has been allocated, either as wife or as ‘helper’.

The powers exercised by the ‘owners’ of girls as wives or helpers are enormous. They include the power to allocate and rape girls (and women) in total impunity, including raping the girl helper, as well as the power to transfer them to another owner.

1. From Amnesty International, *Uganda: Breaking God’s Commands: The Destruction of Childhood by the Lord’s Resistance Army*, London: AI, 1997 (AI Index: AFR/59/001/1997).

Both boy and girl abductees are subject to other forms of power: the imposition of hard labour and physical punish- ment amounting, in the worst cases, to torture, and the power to kill, a power that can be exercised by the girl or boy’s owner, a higher commander within the group or Kony himself.

Wife ownership, polygamy, a husband’s exclusive sexual rights over his wife, including rape, and various forms of violence against women are not speciﬁc to the LRA social system. These and other practices have been acknowledged by recent governmental reports that point to women’s vulnerability through marriage and to Ugandan women and girl’s lower status within the family, community, and society at large.77 What is speciﬁc to the LRA is the extent, nature, and functions of violence against women, and the particularly brutal, hierarchical and institutionalized con- ditions in which violations of women’s human rights are carried out.

Ownership of women and girls resulting from forced con- scription and forced marriage is part and parcel to both the military strategies of the LRA and the social order devised by the leadership. It is a reward distributed to people who are rigorously carrying out the orders of their commanders, including the killing of prisoners of war and captured vil- lagers, and as such may be said to constitute an incentive for such behaviour. It is also a source of prestige and proof of status, the reﬂection and foundation of the LRA social order, as the higher the rank within the LRA hierarchy, the greater the number of ‘wives’ and domestic ‘helpers’.

1. The Government of Uganda, *Uganda National Council for Children, Equity and Vulnerability: A Situation Analysis of Women, Adolescents, and Children in Uganda*, 1994. Ministry of Gender and Community Development, Country Reports in Preparation for the fourth World Conference on Women 1995.

The nature and function of forced marriage within the LRA social system is further demonstrated by the strict regula- tions imposed on the sexual behaviour of both boys and girls. The moment a girl has been forced into the ranks of the LRA, rape or consensual sexual relationships outside the forced marriage are strictly forbidden and punished by the killing of both boys and girls (in the case of consensual sex) or of the boy (in the case of rape). Such rules, however, are spatially bound, in that they do not apply to the vil- lages. Amnesty International has gathered testimony dem- onstrating the frequent occurrence of the rape of women and girls during the attacks and looting of villages, and the total impunity surrounding it.

Within the political and military space constituted by urban and rural communities, rape is clearly considered, along with killings and torture, as a strategy of warfare, a means of intimidation and control over the populations. It does take, however, another dimension and function within the LRA ranks: once a girl has been forced to join the rebel group, she becomes the property of the movement, and rape through forced marriage a regulated and naturalized activity fundamental to the socio-military engineering and functioning of the group.

### **Steps Involved in Documentation**

Documenting sexual violence requires several steps to be carried out, which are summarized in this section.

#### Preliminary stages

* + - Monitor the armed conﬂict and the situation of women.
		- Keep track of all cases brought to your attention.
		- Identify patterns regarding acts of sexual violence.

These patterns may refer to the identity of the victims, the location of the attacks, the methods used, the circum- stances of the abuses, the alleged perpetrators and the ofﬁcial responses.

Conduct fact-ﬁnding within or outside the area. The key questions guiding fact-ﬁnding activities include the fol- lowing:

* + - Is it safe to go to the scene? Could my presence endanger the lives of the witnesses and contacts? Are there al- ternative places where I can gather further information and evidence?
		- What kind of evidence do I need to assert that an act of sexual violence took place?
		- Who is most likely to give me access to this evidence?
		- How best can I interview victims and witnesses?

Assess information. The key questions include the follow- ing:

* + - Does the abuse violate IHL?
		- How reliable is my primary source of information?
		- Is the allegation consistent with the patterns regarding such abuses?
		- How valid or consistent is medical and other evidence?
		- How reliable and consistent are the testimonies?
		- Who is responsible?

In addition to these general steps, the investigation and assessment of sexual violence require speciﬁc precautions, preparations, evidence and information. The following is a summary of what is involved with regard to this subject, which has been discussed in other booklets to which the reader should refer.78

#### Knowledge of the medical and social consequences of sexual violence

Understanding the nature of sexual violence and its impact on victims will allow you to conduct proper interviews and to refer the victims to medical or legal experts who may be in a better position to help the female victim. The following are key steps:

* + - Familiarize yourself with the medical consequences of sexual violence, referred to as *Rape Trauma Syndrome*, a form of *Post-Traumatic Stress Disorder (PTSD).*79
		- Collect information on the medical consequences for the victim in the context of her country (i.e. high prevalence of sexually transmitted diseases, including HIV).
		- Find out whether there are any facilities and provisions for medical check-ups for sexually transmitted diseases, (including HIV), and reproductive health.
		- Identify institutions or professionals working with vic- tims of sexual violence.
		- Learn about the social and economic consequences for victims of sexual violence (i.e. rejection, alienation, pressure, divorce, prostitution, etc.).
		- Seek expert advice and possibly assistance to conduct the interviews: medical practitioners specializing in sexual violence, members of women’s NGOs offering sup- port to victims of sexual violence, etc.
1. Agnès Callamard, *Methodology for Gender-Sensitive Research*, AI-Canada and ICHRDD: Montréal, 1999; *Documenting Human Rights Violations by State Agents: Sexual Violence*, AI-Canada and ICHRDD: Montréal, 1999; Ukweli: *Documenting Sexual Violence*, AI-Netherland and CODESRIA: London, 2000.
2. *Documenting Human Rights Violations by State Agents: Sexual Violence*, pp.23-24.

#### Necessary precautions and preparations for interviewing victims and witnesses

It cannot be overemphasized that interviewing survivors of violations requires many precautions and much prepara- tion. Precautions concern the safety and well-being of the survivors, family members and contacts during and after they have agreed to talk to you. Preparations include skills in terms of interviewing and knowledge of the consequences of the abuses the survivors have endured and of the impact of the interview itself.

Be especially aware that it is your obligation to conduct the interviews in the safest, least traumatic, and most respectful manner.

The interview is likely to re-awaken post-traumatic stress. After disclosure, the survivor or witness frequently experi- ences traumatic reactions, including ﬂashbacks, and night- mares. Ideally, all interview sessions should be followed by a debrieﬁng, the same or next day, in which you ask the survivor or witness, alone or with other interviewees, what it felt like to be interviewed.

Sexual torture is one of the most difﬁcult allegations that can be made because of the social, cultural, moral, and political environment. In almost all societies, a woman, man or child coming forward with allegations of rape, sexual violence or sexual humiliation, has a great deal to lose and is likely to face extraordinary pressures and ostracism from the closest members of her/his family and the society at large.

The victims of sexual violence may be unwilling to report the abuses. It will take all your skills, knowledge and sensi- tivity as an interviewer to elicit from the interviewee an acknowledgement that sexual violence did take place and

the necessary information to document the allegation. The interview should never reinforce the survivor’s feeling of loss of control. She should always be given choices and decisions, including the decision to end the discussion.

## INTERVIEWING VICTIMS OF SEXUAL VIOLENCE: PRECAUTIONS

**Please refer to “Interview Guidelines” in the booklet *Meth- odology for Gender-Sensitive Research*.**

* Consider all possible risks to the safety of the victims and witnesses or their families; identify and implement protec- tion measures; if necessary, seek assistance from trusted diplomatic missions or governments for relocation and re- settlement.
* Rely on trusted local contacts (the so-called gate-keepers) to approach victims and witnesses.
* Assure the victims of the conﬁdentiality of their testimony, explain what will be done with their testimony and do ev- erything to ensure that the victims understand the implica- tions of giving their testimony.
* Ascertain whether they have been interviewed before, by whom and for what purpose.
* If the victims are unwilling to speak about their own ordeal, ask questions about any other abuses they may have wit- nessed: they may be willing to talk about what happened to others.
* Include debrieﬁng sessions: the interview is likely to re- awaken post-traumatic stress. After disclosure, the survivor or witness frequently experiences traumatic reactions, in- cluding ﬂashbacks, and nightmares.
* Be aware of your own fears and reluctance to talk about certain abuses and the hidden messages you may com- municate to the survivors.

### Evidence Required

The quality of the interviews is key to the investigation and assessment of the information. Because of this, it is very important to be well prepared for your interviews, well- versed in the deﬁnition of the crimes you are investigating and the nature of the information required from the survi- vors and witnesses, familiar with the patterns of abuses, and to elicit all required information from the witnesses and survivors.

In most cases, the evidence regarding acts of sexual vio- lence will consist of interviews and testimony, medical records and/or expert opinions, ofﬁcial or semi-ofﬁcial statements, physical marks on the victim’s body and pho- tographs.

#### Interviews and testimony of the victims themselves and witnesses

Conclusive demonstration that rape, sexual slavery or en- forced prostitution (in addition to rape) took place, or that coercion was involved (as subtle as it may be, i.e. food in exchange of sexual services) will rely to a large extent on the quality of the testimony and information provided by the survivors and witnesses.

#### Medical evidence: expert evaluation by Rape Trauma Syndrome or PTSD specialists

Evidence of post-traumatic stress disorder is considered valid medical evidence that abuse took place. Whenever possible, you should therefore seek assistance from experts in this area and, provided the victims agree to it, ask them to evaluate the mental state of the survivors. Be aware that evidence of PTSD is not always considered as evidence of rape, other forms of torture or ill-treatment.

#### Ofﬁcial or semi-ofﬁcial statements

These statements may be made with reference to a speciﬁc allegation or may be of a more general nature, such as statements that incite violence against women or women of a speciﬁc community, or that condemn certain types of abuses, such as sexual violence.

Section 4 of Chapter Four of this manual provides details on assessment of allegations.

#### Evidence of physical marks of sexual violence

In a smaller number of cases, you may also be able to obtain physical evidence of sexual violence. This evidence may include genital trauma, bruising or other signs of violence, which have been documented by medical doctors or other practitioners. In many cases, however, survivors of sexual violence are unable to seek medical assistance or are only able to do so long after the abuse took place. Physical marks may have disappeared and a medical certiﬁcate may be inconclusive.

#### Photographs

In some cases, photographs of the victims’ bruises or other forms of sexual violence may have been taken after the abuse took place. Again, as with the physical evidence of sexual violence, there are few cases in which victims or their friends or families take pictures of the physical marks of their abuse. In addition, in many situations, access to a functioning police or medical system responsible (in peace- time) for carrying out these activities is very difﬁcult.

### Key Information Required

**The nature of the acts**: demonstration that an act of a sexual nature (most often accompanied by other forms of violence) has taken place, such as fondling the breasts and other parts of the body, stripping the victims, penetrating the anal or genital opening, fellatio, etc.

**The circumstances surrounding the abuses**: demonstra- tion that the act was accompanied by the use of force, threat of the use of force, duress, psychological oppression, abuse of power, etc.

**The identity of the perpetrators:** by name or nickname, rank, uniform, etc.

In addition, if you are seeking to demonstrate that the vic- tims were the victims of sexual slavery, forced pregnancy, etc., you will need further information from them on the following aspects:

**Behaviours and statements of the perpetrators** (i.e. “explanations” for the acts, such as making the women pregnant);

**Duration of the detention** (i.e. until the women become pregnant or give birth);

#### Nature of the coercive relations

* Statements and acts indicating that women are the property of a speciﬁc individual or individuals (i.e. forced marriage, women being sold, bartered or lent by their “owners”).
* Nature of the power and prerogatives allocated to the individuals who are detaining them.
* Whether sexual acts were forced upon women for the ﬁnancial gain of those who were detaining them.

**Forced labour:** whether women had to perform forced labour, engage in combat, etc.;

**Other abuses:** whether women were beaten, ill-treated, victims of other forms of torture, etc.;

**Abuse inﬂicted upon others**: description of the abuse and the circumstances.