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RAPE AS A WEAPON OF WAR: ACCOUNTABILITY FOR SEXUAL VIOLENCE IN CONFLICT

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

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RAPE AS A WEAPON OF WAR: ACCOUNTABILITY FOR SEXUAL VIOLENCE IN CONFLICT

TUESDAY, APRIL 1, 2008

U.S. SENATE,
SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10 a.m., in room SD–226, Dirksen Senate Office Building, Hon. Richard J. Durbin, Chairman of the Subcommittee, presiding.

Present: Senators Durbin and Coburn.

OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Chairman DURBIN. This hearing of the Judiciary Committee's Subcommittee on Human Rights and the Law will come to order.

The subject of this hearing is "Rape as a Weapon of War: Accountability for Sexual Violence in Conflict." This is the first-ever congressional hearing on sexual violence in conflict. It is a sad testament to our failure to take action to stop this horrific human rights abuse.

We will have a few opening remarks, and I will recognize any Senators who are joining us, including my Ranking Member, Senator Coburn, who will be here later in the session, and then turn to our witnesses. Let me make an opening statement.

Today we will discuss the systematic and deliberate use of rape as a weapon of war to humiliate, expel, and destroy communities.

Tragically, mass rape has been a feature common to recent conflicts in Bosnia, Darfur, the Democratic Republic of Congo, East Timor, Rwanda, and Sierra Leone. It is not new or unique to these conflicts.

In World War II, the Japanese Imperial Army raped an estimated 20,000 women, ranging from infants to the elderly, in the city of Nanking in China in a 1-month period.

Rapes in Nanking, and in too many conflicts since then, have frequently been carried out in public and in front of other family members. Men are often forced to rape their mothers, sisters, or daughters. Women are mutilated and often killed after the rape.

Children are particularly at risk of being subjected to wartime sexual violence, and in some countries, girls and boys are abducted and repeatedly raped.

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Women and girls who survive sexual violence are frequently stigmatized and later rejected by their families and communities.

We have preceded most of these hearings—in fact, all of them—by showing a brief video that we hope will put the hearing in context. This video features clips from the documentary on rape in the Democratic Republic of Congo by Lisa Jackson, one of our witnesses today, who I appreciate joining us. I would like to ask those who are present to view this video as an introduction to this hearing.

[Videotape played as follows:]

"Up to 500,000 women were raped in the Rwandan genocide.

"As many as 64,000 were raped in the Sierra Leone civil war.

"Over 40,000 were raped in the Bosnia conflict.

"And today, as you read this, women are being raped in refugee camps in Darfur and Chad.

"These acts go beyond opportunistic rape and pillage in the chaos of war.

"Rape is used as a systematic and deliberate weapon of war to humiliate, demoralize, expel, and destroy civilian populations.

"Women and girls are tortured and mutilated in front of their families.

"Rape has been used to change the ethnic makeup of a group by forcibly impregnating women.

"Today, the use of rape as a weapon of war is at its worst in the Democratic Republic of Congo.

"They have taken our belongings. We were raped by 20 men at the same time. Our bodies are suffering. They have taken their guns and put them inside of us. They kill our children and then tell us to eat those children. If a woman is pregnant, they make your children stand on your belly so that you will abort. Then they take the blood from your womb and put it in a bowl and tell you to drink it. When we were living in the forest, it wasn't just one man. Every soldier can have sex with you. We got pregnant there. We gave birth in the forest, alone, like animals, without food or medicine. But by the mercy of God we had the courage to escape to the village. We are all alone. Our husbands have been killed, or they have denied us. Even our families have denied us. We don't know where to go, what to do.

"Mass rape in war has also taken place in Burundi, Burma, East Timor, Kosovo, and Liberia.

"Laws prohibiting wartime rape have been disregarded for centuries.

"After World War II, the Nuremberg and Tokyo Tribunals largely ignored wartime sexual violence.

"That is beginning to change.

"That Yugoslav and Rwanda Tribunals have prosecuted sexual violence as genocide, torture, war crimes, persecution, and crimes against humanity.

"We must do more to hold accountable those who use rape as a weapon of war.

"To diminish the cases of rape, I think the first thing is we have to fight the problem of impunity. When the assailant is prosecuted and condemned, others will be afraid and won't commit the same type of infraction.

"Video courtesy of Lisa F. Jackson, from the documentary "The Greatest Silence: Rape in the Congo."

"Images used in this production are not necessarily of survivors or perpetrators of sexual violence."

Chairman DURBIN. Lisa Jackson, thank you so much for contributing a portion of that video. It is so touching. It reminds me of a visit that Senator Brownback and I made to Goma in the Democratic Republic of Congo and visiting DOCS Hospital, and Goma is one of those poor, poor places on Earth that is wracked by poverty and disease and war and volcanoes. And at this hospital, DOCS Hospital, the women were sitting in the dusty road outside the hospital, queued up, waiting sometimes for months for an opportunity for a surgery for obstetric fistula, which in many instances was the result of brutal rape and assault. Because of the problems, physical problems they had, they had been rejected by everyone, and they had nowhere to go. And they just literally sat in the dusty road hoping for the surgery, sometimes multiple surgeries. They still thought that was their only chance to survive. But thank you. The images that you have given us and that I know you will be talking about here will make a big difference.

It is appalling that today women and girls are being raped in conflict situations around the world. It reflects our collective failure to stop the use of women's bodies as a battleground.

The scale of this problem is daunting. A recent report documented conflict-related sexual violence in 51 countries in Africa, the Americas, Asia, Europe, and the Middle East in the last two decades.

Wartime rape is not inevitable. The widespread prevalence of sexual violence in recent conflicts results in part from the lack of accountability for those who commit the rape.

Government and rebel forces violate human rights and these poor people with impunity, perpetuating the stigma that surrounds these crimes.

Historically, wartime sexual violence was tolerated as unfortunate but unavoidable.

Throughout the 20th century, rape and other forms of sexual violence were included in increasingly specific terms in international agreements on the conduct of war. Prejudice and misconceptions meant these crimes were initially framed as private acts violating family dignity and honor, rather than the violent public crimes that they are.

As noted in the video we just watched, the Yugoslav and Rwanda Tribunals made significant progress by prosecuting perpetrators of sexual violence. That we have moved beyond the not-so-distant debate about whether sexual violence in conflict is a war crime is an important forward step.

Despite these developments, wartime sexual violence and the experience of those women and men who survive it remain invisible far too often.

During today's hearing, we are going to discuss the legal options for holding accountable those who use rape as a military tactic. While a growing number of perpetrators of wartime sexual violence have been prosecuted, a much larger number have escaped ac-

countability. The average wartime rapist runs very little risk of being prosecuted.

The United States and other countries must play a greater role. I am sorry to say that if a foreign warlord who engaged in mass rape came to the United States of America today, he would probably be beyond the reach of our laws. It is not a crime under U.S. law for a non-U.S. national to perpetrate sexual violence in conflict against non-U.S. nationals, so the U.S. Government is unable to prosecute such perpetrators of wartime rape who end up in our country.

There is also no U.S. law prohibiting crimes against humanity, one of the most serious human rights violations, which includes mass rape and other forms of sexual violence.

And we must make it clear that genocide and torture, two of the most serious human rights violations that are a crime under U.S. law, can include wartime sexual violence.

These loopholes have real consequences. For example, take the case of Emmanuel "Chuckie" Taylor, son of the warlord Charles Taylor, whom the Justice Department is prosecuting under the torture statute. As the head of the notorious Anti-Terrorist Unit of the Liberian Government, Chuckie Taylor was implicated in wartime rapes committed by the ATU, but it is unlikely that he could be prosecuted for these crimes against humanity in the United States.

Another example is Marko Boskic, who found safe haven in our country after reportedly participating in the execution of men and boys in the Srebrenica massacre. Under current law, the United States was unable to prosecute Boskic for his crimes against humanity and charged him only with visa fraud.

In addition to punishing individual perpetrators, governments that tolerate and fail to take steps to stop wartime sexual violence must be held accountable for their actions. At the very least, we should ensure that U.S. tax dollars do not fund state armies that fail to prevent their forces from engaging in mass rape.

We must work to end the use of rape as a weapon of war, but as long as the practice persists, we should support programs that provide protection, medical care, psychological services and legal remedies to survivors of wartime sexual violence.

As I have said so many times and I will repeat again today, this Subcommittee will focus on legislation, not lamentation. We must end impunity for wartime sexual violence. I look forward to working with the members of this Subcommittee to ensure that our laws hold accountable those who use rape as a weapon of war.

Before I turn to him, I just want to thank my colleague from Oklahoma. You could not find two more unlikely Senators sitting at the same table, as we have so many times, and we have found common ground so many times. Senator Coburn and I may disagree on so many things, but I just want to thank him personally for working extra hard to find that common ground so that in the past, this small, little, new Subcommittee, has generated what I think will turn out to be historic legislation. I want to recognize Senator Coburn now for any opening remarks.

STATEMENT OF HON. TOM COBURN, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator COBURN. Senator Durbin, thank you so much for your kind words, and thank all of you for the compelling stories and the information you bring to us. I am committed, as I know you are, to us forging a solution that will become law so that we can, in fact, prosecute those that are in our country for these terrible acts.

I also want to thank you and your staff. The diligence and the awareness of the problems that are out there that have not been addressed by the U.S. Congress or the U.S. Senate means that they are doing great work. And I know that your staff is a reflection of your leadership, and I appreciate that.

We do not always talk so kindly to one another when we are on the Senate floor, but there are lots of things that we come together on, and we have been able to pass several bills so far that are going to make a big difference in terms of how we handle in this country those who commit such atrocities.

So I look forward to our witnesses, and I look forward to the action that is going to follow that in terms of legislation that I believe will be accomplished fairly quickly and at a time when no longer people can come here under safe haven for deeds that they have committed outside of this country.

Thank you.

Chairman DURBIN. Thank you, Senator Coburn.

Could the witnesses please rise for the oath? Would you raise your right hand? Do you affirm the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. JACKSON. I do.

Ms. WACHTER. I do.

Ms. ASKIN. I do.

Dr. MUKWEGE. I do.

Chairman DURBIN. Thank you. Let the record reflect that the witnesses all answered in the affirmative.

Our first witness is Lisa Jackson, producer and director of "The Greatest Silence: Rape in the Congo," a documentary on the systematic use of rape as a weapon of war in the Democratic Republic of Congo. "The Greatest Silence," which will premier on HBO next week, won a special jury prize at the 2008 Sundance Film Festival. Ms. Jackson has been involved in documentary film making for over 30 years and has won a number of awards, including two Emmys.

I happen to serve in the Senate with a colleague from Illinois who has won two Grammys. I am still trying to win my first award here. I do not know that I will ever do that.

[Laughter.]

Chairman DURBIN. Ms. Jackson attended Sarah Lawrence College and studied film making at MIT. I know this is a deeply personal issue for you. I thank you for the courage it took to make this film and for joining us today. We look forward to your testimony, and I ask each of the witnesses if they could try to restrict their comments to 5 minutes. Your entire statement will be made part of the record. Then Senator Coburn and I will have a chance to ask questions.

Ms. Jackson?

STATEMENT OF LISA F. JACKSON, DOCUMENTARY MAKER, AND DIRECTOR OF "THE GREATEST SILENCE: RAPE IN THE CONGO," NEW YORK, NEW YORK

Ms. JACKSON. Thank you. Chairman Durbin, Ranking Member Coburn, and members of the Subcommittee, I am honored to be asked to come before you to describe from my own perspective some of what I witnessed while shooting a documentary film in the Democratic Republic of Congo in 2006 and 2007. During that time I interviewed many women and girls who had survived sexual violence. I also talked with peacekeepers, doctors, activists, and, most chillingly of all, with self-confessed rapists, uniformed members of the Congolese army who boasted to my camera about the dozens of women they had raped—women like the one that you just heard in the video clip, whose story is no exaggeration. I heard its variation many times: the cannibalism, the egregious acts of brutal violence, the unspeakable degradations, the resulting abandonment, shame, and total despair.

What has been happening to women in the DRC in the last 10 years is beyond the pale of any historical precedent. They are being attacked by armed militias from Uganda and Burundi, by Hutu genocidaires who fled from justice in Rwanda, by warlords and their thugs, and by members of the very army and police forces who are supposed to protect them. Even United Nations peacekeepers have committed rape and sexual exploitation. Congo's is a war where women's bodies have literally become the battleground.

This is a war being fought over riches, not ideologies, and militia are devastating the civilian population in order to loot the country's resources, especially the tin, cobalt, and coltan, that we all require for our consumer electronic devices. Perhaps another hearing might explore the causes and ruinous consequences of this illegal plundering, but everyone in this room should consider the possibility that there is the blood of Congolese women on their laptop computers and on their cell phones.

But over the course of this conflict, hundreds of thousands of women and girls have been intentionally and systematically targeted, gang-raped, mutilated, forcibly abducted, and used as sex slaves. It is sexual terrorism, pure and simple.

I met raped women of all ages, who at times would line up and wait for hours to talk with someone who would listen without judgment, hoping I would relay their stories to a world that seemed indifferent to their horrific plight.

Marie Jeanne is a 34-year-old mother of eight, who was raped by five soldiers when she was 6 months pregnant. She has been abandoned by her husband who tells their children that she wanted to be raped.

Safi was raped at age 11 while soldiers were looting her home. Her huge brown eyes still have a slightly stunned look.

Maria was 70 years old when she was raped by three soldiers. When she told them, "I am an old woman," they said to her, "You're not too old for us."

I thought about these women when I interviewed soldiers, members of the Congolese army, who talked brazenly to me about the

rapes they had committed. They were practically swaggering, describing their reasons and methods of rape without a hint of remorse, because they knew that in Congo's culture of impunity they would face no reprisals for their crimes. They seemed to consider rape their right.

I asked the soldiers how many women they had raped. Five, 11, 18, they replied. One man had lost track. "It is hard to keep record of the number of women I have raped," he said. "For an approximate number, I would say 25."

In my 30 years of years of film making, interviewing these soldiers was the single, most devastating moment that I had ever experienced. I had just recorded men confessing to unspeakable crimes, yet when the interview was over, they just melted back into the forest. And I thought to myself, "Who will be their next victims?"

Yes, the Congolese Government passed a sweeping law last year regarding sexual violence, a law that, for instance, finally makes rape with guns and sticks a crime. But I heard over and over again stories about the futility of enforcement, about rapists who would pay a bribe of $3 or $4 and walk free, about a police sex crimes unit with literally a staff of one, and about women who face brutal reprisals if they dare denounce their attackers. They are left to bear the pain alone, without the solace of peace or the possibility of justice.

The international community cannot continue to turn a blind eye to what is happening in the Congo because an elected government is now in place. Future U.S. to Kabila's government should be contingent on Congo's ending the culture of impunity, ensuring assistance to victims, establishing security in all regions so that the women of Congo can live their lives with the dignity and safety entitled to every human being. We must all use our leverage to end this violence for the sake of women and girls, for the sake of the Congo, and for the sake of the future of Africa.

I will leave you all with the words of Maria, the 70-year-old rape survivor from Bunyakiri, who said to me: "Our country will be destroyed completely if this keeps happening. Women are suffering. We have forgotten what happiness is."

Thank you.

[The prepared statement of Ms. Jackson appears as a submission for the record.]

Chairman DURBIN. Thank you very much, Ms. Jackson.

Karin Wachter is our second witness. She is the Acting Gender-Based Violence Senior Technical Advisor at the International Rescue Committee. That is a long title. In 2002, she launched IRC's Gender-Based Violence Program in the Democratic Republic of Congo, which has gone on to provide services to 40,000 survivors of sexual violence through a network of local partners. Now based in New York City, Ms. Wachter plays a key role in designing IRC's response to sexual violence in emergencies and provides technical guidance for programs throughout Africa. She holds a master's degree in international education from the University of Massachusetts and a bachelor of arts degree in social science and drama from the University of Michigan.

Thank you for being here today. Please proceed.

STATEMENT OF KARIN WACHTER, GENDER-BASED VIOLENCE TECHNICAL ADVISOR, INTERNATIONAL RESCUE COMMITTEE, NEW YORK, NEW YORK

Ms. WACHTER. Let me begin by saying that I feel extremely privileged for having been invited to speak here today. Above all, I wish I could share with you the concerns and hopes of the tens of thousands of women and girls who come forward for help, having been assaulted, tortured, humiliated, and disabled simply for having been born female and being caught in the cross-fire of war.

In the past 6 years, I have seen firsthand the sexual and physical violence perpetrated against women and girls in ten different conflict-affected African countries. It is not an exaggeration to name conflict-related sexual violence a global human rights, public health, and security crisis. The use of sexual violence is both a tactic of warfare and an opportunistic consequence of conflict and displacement. They often go hand in hand.

The systematic use of rape in war has many purposes, including ethnic cleansing, elimination, and the domination of target populations. Up to half a million women were raped during the Rwandan genocide. Tens of thousands of Bosnian women and girls were subjected to egregious acts of violence. Hundreds of thousands of women and girls in Eastern Congo have been brutally raped, a threat and reality that continues today.

This form of warfare is tragically effective. It destroys the fabric of a community in a way that few weapons can. It produces unwanted children, it spreads disease, and it leaves an imprint on the individual and collective psyche that is difficult to erase.

This strategic use of sexual violence is usually accompanied with a sharp increase in opportunistic rape and other forms of sexual violence, carried out not only by the armed groups in an environment of impunity, but within the family and community as well. The physical health and psychological and social consequences of this kind of violence are very real, and they often go untreated. You can only imagine what it does to a family to watch your daughter gang-raped or to be forced to commit the atrocity yourself.

Given the significance burden and responsibility that women and girls carry in providing for their families, trampling upon their physical health and ability to function within society dramatically unhinges the family unit. In most contexts, women and girls are the ones punished for having been raped. Often abandoned, the survivors are left further exposed to sexual and physical exploitation.

The effects of this kind of widespread sexualized terror on the family and community have long-term implications for a nation's capacity to heal, stabilize, and rebuild after war. And unfortunately, for women and girls, the threat of violence remains long after the fighting ends.

In Sierra Leone, in 2007 alone, 1,176 girls and women sought care for sexual and physical violence at IRC centers: 65 percent of those cases were under the age of 15; 64 percent of those cases were rape or gang-rape; the youngest client was 2 months old.

A recent study conducted in Liberia indicated that violence against women and girls is dramatically widespread. In the study population, 55 percent of the women surveyed had experienced vio-

lence in the home; 13 percent of minors in one county and 11 percent of minors in another county had been sexually abused in the past 18 months.

Please let me assure you that at the bottom of all of this suffering is, in fact, a message of hope.

The international community now maintains that sexual violence is to be assumed in all humanitarian emergencies, including natural disasters. It is becoming understood that the burden of proof for sexual violence in humanitarian emergencies should be to provide evidence that rape is, in fact, not rampant. The humanitarian community has made great strides in developing industry standards for establishing the response to conflict-related sexual violence in humanitarian emergencies.

At this point, we know what it takes to launch an effective response, and we know how to monitor the quality of that response. What is harder is securing the necessary resources and deploying the required technical expertise.

In addition, we have made good progress in gaining the commitment and buy-in from key American donors to allocate much needed resources to this crucial issue. We still have a long way to go, but what this means is that we are now able to hit the ground a little faster to set up life-saving services at the onset of an emergency.

We are deeply encouraged by the bipartisan legislation recently introduced by Senator Biden and Senator Lugar, the International Violence Against Women Act—(IVAWA, S. 2279)—which would make violence against women a key priority in U.S. foreign assistance programs.

In recognition of how violence against women is exacerbated by conflict and continues long thereafter, the IVAWA bill is designed to address the issues in war-torn, post-conflict, and development settings. Those of us working day in and day out on this issue eagerly wait for this piece of legislation to be passed.

Sexual violence and its extreme consequences do not need to be an inevitable component of conflict and displacement.

I thank Chairman Durbin, Ranking Member Coburn, and the members of the Subcommittee for your time and interest in this worthwhile cause. Thank you very much.

[The prepared statement of Ms. Wachter appears as a submission for the record.]

Chairman DURBIN. Thank you, Ms. Wachter.

Dr. Kelly Dawn Askin is a senior legal officer at the Open Society Justice Initiative, and served as legal advisor to the judges of the International Criminal Tribunal for the Former Yugoslavia and for Rwanda. She also advised or trained prosecutors, judges, and registries at the Serious Crimes Unit in East Timor, the International Criminal Court, the Special Court for Sierra Leone, and the Extraordinary Chambers in the Courts of Cambodia. She has lectured in over 65 countries and published extensively in international criminal law, international humanitarian law, and gender justice, including her book "War Crimes Against Women: Prosecution in International War Crimes Tribunals," and her three-volume treatise "Women and International Human Rights Law." Since 1995, Dr. Askin has taught and served as a Visiting Scholar at

Notre Dame University, Washington College of Law, Harvard, and Yale.

Thank you for joining us today. Please proceed.

STATEMENT OF KELLY DAWN ASKIN, SENIOR LEGAL OFFICER, OPEN SOCIETY JUSTICE INITIATIVE, NEW YORK, NEW YORK

Ms. ASKIN. Chairman Durbin, Ranking Member Coburn, and distinguished members of this Subcommittee, I commend you for taking up the issue of wartime sexual violence, a terrible crime that is destroying the lives of millions of individual victims, their families, and communities in dozens of conflicts worldwide. I am so grateful that this ground-breaking Subcommittee—which in less than a year has provided extraordinary leadership on ensuring accountability for genocide, gross human rights abuses, conscripting child soldiers, and trafficking in women—is turning its sights to this horrific scourge.

In 2004, I was in Chad in collaboration with the Bush administration's Darfur Atrocities Documentation Project where I traveled to the border of Darfur and spoke with victims and witnesses of rape and other sex crimes committed by the Government of Sudan and their Janjaweed puppets. Over the past few years, I have spent quite a bit of time in places like Rwanda, Uganda, Sierra Leone, and Democratic Republic of Congo where sexual violence has been committed in epidemic proportions.

But let me be very clear: Wartime sexual violence is not just an African problem. It is a problem of enormous magnitude worldwide. I have worked with each of the international courts set up in the past 15 years and have traveled to dozens of conflict and post-conflict zones. During the course of my work on international crimes and gender justice, I have had the opportunity to speak with wartime sex crime survivors from Africa, Europe, Asia, Latin America, and the Middle East. Whether survivors from East Timor, Bosnia, Burma, Iraq, Argentina, or Darfur, the stories victims of sex crimes tell are strikingly similar. They were assaulted by men with weapons, often attacking in gangs, and in public.

Historically, rape has been a war crime for centuries, although only rarely and selectively enforced. The past decade has witnessed unprecedented advances in prosecuting atrocity crimes. Contemporary international justice initiatives first began after reports of crimes committed during the 1990s conflicts in the former Yugoslavia galvanized the world, evoking reminders after the Holocaust that never again would such acts be allowed to happen, much less go unpunished. Ultimately, and with strong U.S. leadership, the U.N. Security Council established the International Criminal Tribunal for the Former Yugoslavia in 1993. The statute of this tribunal authorizes prosecution of genocide, crimes against humanity, and war crimes. And less than a year after the Security Council established the Yugoslav Tribunal, a genocide raged through Rwanda, with as many as 700,000 people massacred and hundreds of thousands of others maimed, raped, and otherwise brutalized during 100 days. So by the end of 1994, the Security Council also set up the International Criminal Tribunal for Rwanda.

The Yugoslavia and Rwanda Tribunals have been unparalleled in their treatment of gender-related crimes, and this has had and will

continue to have a major impact on other international or hybrid courts set up to prosecute war crimes in places like Sierra Leone, East Timor, the Balkans, and Cambodia.

The United States has been a driving force in establishing and supporting most of these courts, as well as in promoting international justice more generally. In these tribunals, rape has been successfully prosecuted as a war crime, a crime against humanity, and an instrument of genocide. The tribunals have formally recognized not only rape but sexual slavery, forced pregnancy, forced sterilization, and forced nudity. Additionally, various forms of sexual violence committed against both men and women have been prosecuted as torture, persecution, and enslavement. These courts, principally through the use of crimes against humanity charges, have forcefully and unequivocally recognized that sex crimes have been used strategically as instruments of war, terror, and destruction, means of inflicting harm far beyond the individual victim.

While the cases in the Yugoslav and Rwanda Tribunals embody tremendous progress in international criminal law, the cases tried represent a minuscule percentage of the sex crimes actually committed and, thus, for tens of thousands, perhaps hundreds of thousands of other cases, there will likely be wholesale impunity.

Criminal prosecution of sex crimes is absolutely critical in order to punish the crimes, highlight its gravity, and enforce the rule of law. Rape is common in peacetime, and its frequency and savagery multiply during wartime. In virtually all conflicts, there is opportunistic rape, rape committed because the atmosphere of violence, the prevalence of weapons, and the breakdown of law and order present the opportunity. But over the last few decades, the trend is toward calculated and concerted efforts to harm a broader group through the use of sexual violence inflicted on the women and girls, the bearers of future generations. Rarely are these crimes prosecuted, particularly when the judicial system is in shambles, and the government leaders are the architects of the violence. In addition to prosecution, it is critical to address gender stereotypes that serve to perpetuate sexual violence.

The shame and stigma wrongfully attached to victims of sex crimes must be shifted to the perpetrators of these crimes. In addition to the physical, psychological, and sexual harm inflicted by rape, sex crime survivors often face severe ostracism, HIV/AIDS or other sexually transmitted disease, and serious reproductive harms. If the shame is placed on the perpetrators for their despicable acts instead of on the victims, I am confident that we would see a reduction in the occurrence of sex crimes.

Prosecuting wartime sexual violence and denying impunity to the perpetrators of horrific crimes are bipartisan issues. The United States can close gaps in its criminal codes which might allow perpetrators to escape justice. The United States should be able to prosecute any person found in this country who is responsible as an individual or a superior for war crimes, crimes against humanity, or genocide, including for sex crimes.

Let me just mention two core recommendations to the Subcommittee which can improve U.S. law and practices on redressing wartime rape.

First, enact a Sexual Violence in Wartime Accountability Act that criminalizes wartime sexual violence, provides for prosecution of anyone who commits sexual violence with a nexus to an armed conflict, whether in the United States or abroad, and provides for penalties commensurate with the gravity of these offenses. The law should also designate persons who commit wartime sexual violence as inadmissible aliens, allow the deportation of persons who commit wartime sexual violence, and deny impunity and safe haven to such persons.

Second, the Subcommittee should consider enacting legislation making crimes against humanity, including various forms of sexual violence, crimes under U.S. law.

The bottom line: The U.S. should return to the forefront in promulgating legislation on wartime sexual violence. It is critical to modernize our criminal codes to provide more protections to the victims of sex crimes and ensure that perpetrators neither escape justice nor find safe haven in this country. The United States should have the ability to prosecute a range of sex crimes when committed with a nexus to an armed conflict as a war crime, a crime against humanity, or as genocide. Limiting prosecutions solely to war crimes would fail to recognize the widespread and systematic nature of many sex crimes, as well as their tactical commission as a means of terrorizing, demoralizing, and ultimately destroying the targeted group.

I would be pleased to answer any questions the Subcommittee may have.

[The prepared statement of Ms. Askin appears as a submission for the record.]

Chairman DURBIN. Thank you very much, Dr. Askin.

Our next witness is Dr. Denis Mukwege, who is the Director of the Panzi Hospital in Bukavu in the Democratic Republic of Congo. He is one of the world's leading experts on treating survivals of sexual violence in conflict.

Dr. Mukwege has a remarkable story. He worked in a hospital in Lemera in South Kivu Province where he established an obstetrics and gynecology program, something that he has in common with my colleague, Senator Coburn, who is also a specialist in obstetrics and gynecology. The destruction of this hospital in 1996 during the conflict forced him to move to Bukavu. In Bukavu, the absence of a health facility to assist women during their deliveries prompted Dr. Mukwege to spearhead an effort to build a maternity ward with an operating room at Panzi.

The growing number of women seeking assistance for brutal, conflict-related rape led him to create a special program for the treatment of survivors of sexual violence. An average of ten women seek treatment for sexual violence injuries every day at the Panzi Hospital, and an estimated 30 percent of these cases involve injuries so serious that the patient must undergo major surgery.

Dr. Mukwege studied medicine in Burundi and specialized in obstetrics and gynecology at Angers University Hospital in France. I want to thank him for being here today, and I will tell you, as I mentioned earlier, having visited one of these hospitals and understanding what you face every single day, you are truly a hero for

what you do for some of the poorest people on Earth. And it is an honor to have you before our Committee.

Dr. Mukwege will testify in French. His assistant, Jean Moorhead, sitting to his left, will simultaneously translate into English. I will now attempt to say three or four words in French, after 6 years of time in classrooms: "Bienvenue. Commencer, s'il vous plait."

[Laughter.]

STATEMENT OF DENIS MUKWEGE, M.D., DIRECTOR, PANZI GENERAL REFERRAL HOSPITAL, BUKAVU, SOUTH KIVU, DEMOCRATIC REPUBLIC OF CONGO, ACCOMPANIED BY JEAN MOORHEAD, INTERPRETER

Dr. MUKWEGE. Chairman Durbin, Ranking Member Coburn, and members of the Subcommittee, it is a great honor for me to be invited to testify before this tribune concerning the acts of violence against the civilian population, and especially the women, in the eastern Democratic Republic of Congo.

I thank you for accepting to take your precious time to listen to my testimony about the sexual terrorism that the women in the Eastern Congo have lived with for almost 10 years, and this is known by the national and international community, without anyone making a serious decision to end this shameful crime against humanity in the 21st century.

The word "rape" or "sexual violence" cannot fully translate the horror that hundreds of thousands of women are living in this part of the world. My testimony refers to my daily contacts with these victims in the hospital, and the thousands of women whom we treat.

It is important to point out that this sexual terrorism is done in a methodical manner and according to the method of terror each armed group uses against their victims. Generally, the victims are raped by several men at a time, one after another; in public, in front of parents, husbands, children, or neighbors; rape is followed by mutilations or other corporal torture; sexual slavery often goes on for months; and there are all sorts of psychological torture.

On arriving at the hospital, women victims complain of physical, psychological, and social problems, and they show sexually transmissible infections, especially chlamydia, which is a source of chronic abdominal pain and results in sterility; HIV infection, accompanied by opportunistic diseases; genital lesions ranging from simple wounds to complicated genital lesions stopping urinary or digestive function such as urogenital and recto-genital fistulas; fibrosis of the vagina, et cetera.

It goes without saying that this woman, who has become incapable of fully using her capacities as a woman because all possibility of motherhood is taken away from her, and in addition is weakened by AIDS, hopes in her pain for an easy death. And we are all witnesses that this is voluntary murder.

The woman is deeply humiliated, and this brings on behavioral difficulties which can result in suicide, disinterest in living, not caring for anything, and aggressiveness. These women are often rejected by their own family and their husbands. This exclusion and

isolation can worsen the behavioral problems which were mentioned before.

This results in a breakup of the family, and often the woman or girl victim is excluded and condemned instead of the rapist. The result is the destruction of potential mothers and the spread of HIV on a large scale, which brings about the disappearance of the population without the capacity of the population renewing itself.

The analysis of this phenomenon shows that the rapists are not doing this to satisfy some kind of sexual desire, but simply want to destroy the woman. They want to destroy life.

This sadistic desire to destroy pertains not only to the woman, but to her whole family and the whole community. This situation is so much more serious because it does not concern 10,000 women but, according to estimates, several hundred thousand women.

"My name is Madame X, and I am 47 years old. On the night of August 24, 2007, while we were sleeping, four intruders speaking another language, and probably coming from Kahuzi Biega Park, broke down the door of the house. They tied up my husband, stole everything in the house, and demanded money. Two of them raped me, and the two others raped my 13-year-old daughter and took her into the forest. Up to now, I do not know if she is still living. When they first raped me, the second took a piece of wood wrapped in a piece of cloth and began to clean my private parts. In putting the piece of wood deeply into me, he wounded my bladder and my private parts. The next morning, the village people who had not run away took me to the dispensary. Two days later, a medical team from Panzi found me at the dispensary and took me to the hospital. I was treated and am now better, but I am afraid to return home because the intruders are still in the forest."

This is an example of what we are living with every day. Thus, I am asking the national Congolese community to invest thoroughly in putting an end to this crisis, similar to no other, that is going on in eastern Congo by using political, judicial, and whatever other means to isolate the authors of these crimes and stop them from committing any more crimes.

I am also asking the international community to make rational use of MONUC, the United Nations forces in the Congo, to protect the civilian population and especially the women, which is part of their mandate, and yet this situation continues to this day.

I am also asking the American Government to use its influence on the governments of the countries of the Great Lakes Region to stop this practice of rape being used as a weapon of war and to help stop the leaders of these horrible crimes, who are known to everyone; where they are staying is no secret, and their acts are known to everyone.

Members of the Subcommittee, the eyes of these women are now riveted on you. Their eyes will not leave you until you have actively taken steps to alleviate their suffering.

Thank you.

[The prepared statement of Dr. Mukwege appears as a submission for the record.]

Chairman DURBIN. Dr. Mukwege, thank you very much for that moving testimony. When I visited DOCS Hospital in Goma, and asked about the doctors who were there, they told me that there

was one surgeon for every 1 million people. And I asked them what these doctors were paid, and I was told that they work for the government and that they were paid $600 a month, when they were paid.

Can you tell me if the circumstances at your hospital are similar?

Dr. MUKWEGE. The situation of doctors in the Congo today is catastrophical. I have worked for almost 25 years in this area, in this region, as the only gynecologist. It is practically impossible to find a gynecologist who will come and work under these conditions. They prefer to go to South Africa or other countries where they are better paid and treated. And to get around this problem, I have trained some of my colleagues, doctors, in gynecological and obstetrical interventions to be able to help me to work in the hospital.

Chairman DURBIN. May I ask you this? You have spoken to us graphically about the physical damage being done to the victims. Would you speak for a moment about the psychological element? What I found in many of these women in Goma was rejection by their families, by their tribes, by all of their friends. They were alone after they had been victimized. You have given us examples of women who have been victimized. Are these women welcomed back to some part of their background, their family, their community, their village? What is their future after the surgery?

Dr. MUKWEGE. After surgery, we come up against two types of problems. The first group are women who are cured physically and who do not have AIDS. It is easier to reconciliate this group of women with their families, and, with the help of churches and NGO's, we make many efforts to reconcile these women with their families. There has been a favorable change today in the way that people look at the women, and we have been working with the churches not to condemn these women. And this has led to an acceptance on the part of the community and the families of these women.

But even if the woman does not have AIDS or she is not very sick, when the rapist gives a child to the woman he rapes, it is hard for the family to accept the child, and for the community also. And we have been trying to work with the family to accept the child, because when the father of the child has killed the whole family, it is absolutely difficult for the family or the community to accept the child.

We have a problem because with very young girls, many of them are incurable, 13, 14 years old. The bladder was destroyed. The rectum was destroyed. The vagina was destroyed. And in that state it is hard to cure them. So they cannot go home because when they go home, they do not smell good because they are incontinent, and they always come back to the hospital. And it is a problem because we keep these young women.

They never want to leave the hospital. They always find a reason to stay at the hospital, and it is hard for the hospital because the hospital cannot keep all these women. And that is a big problem for us. They always find a reason to come back and stay there.

Chairman DURBIN. If I could interrupt you for a moment, I want to give Senator Coburn a chance to ask questions. I misstated earlier. He is a family practice physician with a specialty in obstetrics, so I want to make sure that is clear for the record.

Senator Coburn? And then we will continue with questions to the rest of the panel.

Senator COBURN. Well, first of all, let me thank each of you for your testimony. I was intrigued by Dr. Askin's recommendations, and I just wondered what Ms. Wachter and Ms. Jackson thought. I do not know if you have read her testimony. She gave us some very specific things that she thought we could do. Do you have any comments about what those are? She listed, I believe, five. Is that not correct, Dr. Askin? Five specific areas that we can do in terms of domestic law that will have an impact on international law. Could either of you comment on that? Are you aware of what her recommendations were? Ms. Jackson?

Ms. JACKSON. I have not read her recommendations, so I cannot really comment, and not being sort of an expert in these sort of policy type of areas, I will let Karin take this question.

Ms. WACHTER. Unfortunately, I have just received the testimony myself, so I was not able to read through the recommendations. What I would say is that what Dr. Askin is saying in terms of impunity and having to hold perpetrators accountable is absolutely important. From the standpoint of an organization that gets on the ground and provides services to the survivors of these kinds of crime, we certainly want to promote the idea that while we are looking at issues of impunity, we look at issues of continued support and services on the ground, and also help to change the laws to make it more amenable within the countries themselves to deal with these issues.

The International Violence Against Women Act that has been recently introduced is an exciting opportunity to make sure that this can happen.

Senator COBURN. OK. Dr. Mukwege, you have described very literally the complications that come from this. Chlamydia is a silent killer in this country as far as reproductive health, but it is not so silent where you are treating. And I would dare say probably your experience on reconstructive vaginal, rectal, and urethral surgery is greater than most in this country. Are there areas where we could as a country be of help in attaining further expertise for those women who have failed repairs? Is there something that we can do to help make them whole through either our research or our training where we could enable you to be more effective?

Dr. MUKWEGE. This is quite an opportunity. We really need someone who can do this kind of surgery or experts who could do this kind of surgery, because it is not the usual kind of surgery that people do. We need assistance in urology and gynecology surgery. There is no urologist in Goma or Bukavu, and if a mission of gynecologists and urologists, American gynecologists and urologists, could come to help the inoperable cases, because there are other techniques of derivation of tubes to be able to help them. That would be very helpful for us.

We do have a new group, a new contact with Harvard University where they wanted to send experts, but up to now the experts they have sent, it is more on a research basis, and we have not had anyone who does this kind of surgery to come.

Senator COBURN. Just for the audience's sake, my own personal experience is that if we have a recto-vaginal fistula or urethro-vag-

inal fistula, we attempt to repair it once. But in the central part of the United States, what we always do is refer to one center in St. Louis because there is such a limited exposure.

My worry is that we do not have this expert, that Dr. Mukwege actually has more expertise than we have in this country, and I will try the question one more time.

Is there a way where we could create a specially trained group of physicians that would help you or at least make physicians available to you that would help you?

Dr. MUKWEGE. At Panzi we have trained eight generalist doctors in these kinds of operations. But we still need help because—and if the American Government could help us create a training center at Panzi for doctors, we could get some experts from the United States, the urologists, that we could also work with, because we have certain knowledge about this, and we could work together and we could train other doctors.

Senator COBURN. Thank you very much.

Thank you, Mr. Chairman.

Chairman DURBIN. Thank you, Senator Coburn, and I appreciate your being here at this hearing.

I will just add a comment. One of the things I noted was that as soon as these doctors are trained, many of them are subject to being poached by the United States, Germany, France, South Africa, where they can make dramatically more money in dramatically better situations. And that is one of the dilemmas here where we are complicit in the problem. We are attracting these doctors from Africa, and nurses, to come to the United States to serve our needs when they are desperately needed in many parts of the world, like Africa. I am trying to address this. It is a terrible dilemma for an American Congressman, but one that we clearly have to face.

Dr. Askin, I want to followup on what Dr. Mukwege has said. Speaking as a lawyer who has not been a prosecutor in criminal cases, it is my understanding that to prove a case of rape, you need the testimony usually of a victim. In this case, we are dealing with children and victims who are clearly not consensual in any way, shape, or form in this. So as you advise these judges and others, prosecutors and others, tell me how they make the case when we are dealing with people who are too ashamed to speak of the atrocities that have been visited on them. And also, just as a footnote to this, after leaving Congo, I went to Kigali in Rwanda and stayed at the Hotel Rwanda and walked around to some of these scenes that I had been told about in that terrible atrocity and genocide in Rwanda. Aside from the museum, which highlights what happened during that genocide, I found Rwandans, by and large, not wanting to talk about it. They wanted to put it behind them.

So tell me about that aspect as well, that by the time a tribunal meets, a war many times has passed, and people do not want to reflect and dwell on the pain of the past. Tell me how cases can be made under those circumstances.

Ms. ASKIN. Thank you, Senator Durbin. That is an excellent question.

Actually, because so many of these crimes are committed in public, often it is not necessarily just the victim who is testifying. It

is witnesses. The tribunals have found it very effective to ask virtually every person that they interview about sexual violence.

There is one case, for instance, at the Rwanda Tribunal where rape as a crime against humanity has been charged, and yet they have never called a single victim. They asked everybody else: Peacekeepers, did you know about wartime rape? Did you see any? Did you see the evidence? And many times they will report, because it is so notorious, that everybody can talk about, yes, it was widespread, it was systematic; there were these patterns of conduct in these particular places.

And doctors like Dr. Mukwege, I was with him in Bukavu in January, and he has this phenomenal documentation of patterns of conduct of different groups. You know, some of the ones that just jumped out at me, you know, one particular group, when they attack women, they cutoff the husband's head and leave it on the chest of the woman while they are raping her, and she eventually goes mad. Another group has, you know, attacks with foreign objects.

I do disagree to some extent with the claim I think that is quite frequent that people do not want to talk about this. Now, I do think that they want to get on with their life, and 10 years later, you know, they may have married, maybe their husband does not know about what happened to them. But I have found in much of my work that people have been extremely willing to talk about the sex crimes committed against them, testifying, doing—you know, when many of them come from justice systems where there are not necessarily fair trials, when everybody in the community will know if they leave for weeks at a time to go away. I think there certainly is the shame and stigma, but I do think that people are willing to talk about it. And I have spoken to several women who have found the experience extremely empowering to be able to go into court and tell their story.

But, you know, there is no question that it is a difficult crime, but I think the public nature of so much of it has made the testimony somewhat easier.

Chairman DURBIN. Ms. Wachter, Dr. Mukwege has said in his testimony—I am paraphrasing here—that mass rape as we are speaking of here is less—and some of these are my words, but paraphrasing his—less an issue of sexual desire and more a crime of violence to destroy the woman, destroy the family, destroy the tribe as part of, you know, this kind of tactic of war.

So is this something that in your experience becomes a calculated and announced policy? Or is it something where it drifts to this level of violence and then continues unabated without any attempt at restraint? How calculated, how specific is this as a tactic of war?

Ms. WACHTER. I think that is an excellent question, and it is one that we oftentimes ask ourselves. I think that there are clear examples, such as in Bosnia, where it was a clearly defined policy. In DRC, my sense of it is that it has been so effective in controlling, in demeaning, in demoralizing the population caught between the different rebel groups and the military that it is more a spreading practice, as they see it as being very effective in carrying out their so-called military aims. And also because the soldiers such as in Congo are underpaid, they are not taken care of, they are actu-

ally using this as a tactic to get their food from the population. So it is oftentimes hard for us to say.

Chairman DURBIN. One of the comments made by Dr. Mukwege was about the role of the United Nations forces in Congo, for example, and I was with those forces, visiting refugee camps, and he called for more vigilance on their part. So speaking of the refugee camps—and I imagine you have seen them or have friends who have visited there—are the United Nations forces in those instances, to your mind, doing the job, making certain that there is safety and security at least within the refugee camps?

Ms. WACHTER. Also an excellent question. I think that oftentimes the U.N. forces have their hands tied a bit, but that they are not, in fact, able to do the job as it was envisioned, and certainly not up to the expectations of the community itself. Certainly in the Congo example, the Congolese population is looking to MONUC to be providing them that protection, and they are unable to.

Chairman DURBIN. There have been mentions here several times—it has been mentioned several times—of peacekeepers being involved in this terrible crime. Is there any evidence that they are being prosecuted? Ms. Jackson?

Ms. JACKSON. Yes, often they are sent back to the host country, so the Uruguayans, the South Africans, the Bangladeshis will be sent back with a cut in pay, but they will face no reprisals at home. I had a good friend who was actually in charge of the MONUC investigation and prosecution, and they could bring no charges against any of the dozens and dozens of peacekeepers who were setting up brothels and exchanging wheat for sexual favors. So, no, the host countries do not—there is no pressure on them to prosecute.

Chairman DURBIN. Dr. Mukwege also spoke about the women after surgery, and it appears from your documentary that you have interviewed many of these women who have been through this experience—and some, I am sure, have received some medical attention—being lost souls with no place to turn. Tell me what your experience has been, Ms. Jackson, as you traveled around and spoke in some of these different regions, about what happens to these women ultimately.

Ms. JACKSON. Well, I think it needs to be emphasized that the women who make it to Panzi Hospital are a minority. The ones who get there often walk for months through the forest. This is a country with no infrastructure, with no roads. So the women who get there, because they have, you know, hitched a ride on a truck or family members have helped them limp through the woods, are the minority. And the majority of women never make it to any sort of medical facility.

They are forgotten women in a forgotten war, and they are very much—they have become sort of the walking dead. They are ostracized within the community, as he mentions. They are incontinent. They are, you know, constantly soiling themselves. Yet the women will come together, and I met many groups of women, all of whom have been raped, all of whom have been rejected by their families, all of whom had children that they could no longer care for, who often will congregate, for instance, in churches, in parish halls. And that becomes their new community, because they are forced to start

over again. They are forced to start over again. They have nothing left.

And, of course, their children become picked off by the militias, and they are conscripted as child soldiers. They end up working in the mines for slave wages. So you can see how the family begins to break down as soon as the women is victimized.

Chairman DURBIN. Have you run into any coordinated efforts to help them, like micro credit programs or anything of that nature?

Ms. JACKSON. Well, there are many, many NGO's on the ground in Eastern Congo, and the IRC has wonderful programs, Women for Women International.

The micro loan thing is—you know, it can work, but this is a country with no banking system. And when you go into a village in, you know, a 4 x 4 with an NGO logo on the side and go into a home, immediately that home is—the presumption is that you are leaving money and goods behind, and often people are robbed after you come into a village. I mean, I learned to go in, you know, very much under the radar.

So, you know, the country is in such desperate straits that aid needs to come from so many areas, you know, for women's economic empowerment, for their physical and reproductive health, you know, to address the impunity issue, to deal with their children, a generation that has been raised in this horrible conflict.

So micro credit is a definite possibility, but how one enacts that is difficult.

Chairman DURBIN. We have spoken of many countries where this use of rape as a tactic of war has been prevalent. We focused on the Congo, Democratic Republic of Congo, and not to take anything away from the tragedy and genocide of Darfur, I hope that today's hearing will encourage people to look more closely at the sad, tragic situation in Democratic Republic of Congo.

I would like to go to really the heart of the hearing and back to Dr. Askin. It is our hope that we can make it clear that the United States under its law is not going to look the other way when someone who is guilty of these crimes comes to our country, even if the victims have not been Americans, even if the crime did not occur on American soil, that we will not give them the comfort of safety and security in our Nation. They would face prosecution.

I do not know if this has any great value on the ground in these countries that we are speaking of. It certainly has great value to me from a moral position that we are trying to say to the world this is what everyone should do so that there is no safe haven. And I would ask, Dr. Askin, if you could comment on that aspect of the hearing.

Ms. ASKIN. Absolutely. I mean, I think that we have seen for the last, you know, 20 or 30 years that there have been perpetrators of horrible atrocities who have ended up coming to the United States, and there has not been, until more recently, laws on the book to prosecute them if they committed the crimes in Argentina or Chile or outside the United States. And I think that sends a signal that this is a safe haven, that, you know, perpetrators can come here because we do not have laws that can prosecute them.

Often, we do not extradite—or sometimes we do, but because sending them back, the country is unable or unwilling to prosecute

them themselves. So there is nothing to do, you know, under the Alien Tort Claims Act or other civil remedies, but there need to be legal remedies, particularly for when crimes are committed outside the United States and the perpetrator comes to the U.S. And I do think it sends a signal not only to the victims but to other countries that you take these crimes seriously.

It is frustrating to see over the years how many generals or superiors who have committed crimes in other jurisdictions have come here and been subject to very little criminal penalty.

Chairman DURBIN. What of the argument some make that we should just deport these people back to the country where this occurred, which is where they should be prosecuted, since it is likely there will be more evidence? What do you make of that argument?

Ms. ASKIN. Most of the time the countries in question are ones that cannot prosecute or will not prosecute, and so they will essentially go back with impunity. Sometimes they may be subjected to torture. Most of the countries do not have the due process standards that this country has.

You know, I do think that there is a duty to prosecute or extradite to a country where they will get a fair and effective prosecution.

Chairman DURBIN. Let me ask you, Dr. Askin, as my last question: Can you point to a country which has handled this well, where you believe that they have recognized the problem and have done the right thing in terms of prosecuting those who have committed these crimes against humanity?

Ms. ASKIN. I think you are starting to see that increasingly in Spain and Belgium where they are increasingly prosecuting crimes committed outside their jurisdiction, for war crimes, crimes against humanity, and genocide. They have laws on their books that enable them to do that, and I think there has been even some situations where, you know, somebody has gone to their country for medical reasons, and they have arrested and are prosecuting them.

Chairman DURBIN. Thank you.

Dr. Mukwege, I am going to ask you a question which you may not be prepared to answer. I hope you are. But if those who are following this hearing on C–SPAN want to help you and your hospital in its efforts, is there a charity, an American-based charity, for example, that they could support that might be able to help you with your important work?

Dr. MUKWEGE. Thank you very much for asking me that question. I want to say thank you because we have already benefited from a program. We are benefiting from an outreach program—but it is not on a very large scale—to go to different villages and get women who are not able to come to the clinic. We go to see the women in the villages. We talk about this, too, and the problems of rape, and women come forward and are examined by the doctors. Or we take them to the hospital to get help. We have a limited amount of help with that.

The additional aid we are asking today would be the training that we talked about, if we could maybe build a training center for training doctors in gynecology and fistulae, and we could cooperate with the American doctors with what we know and what they know. And we would like those two programs—the outreach pro-

gram going to the villages and getting the women, plus the training center—those are the two kinds of programs that we would like to continue and develop.

Chairman DURBIN. Thank you. I will try to work with you to achieve those goals and find the appropriate agency or NGO to help us reach them.

I want to place in the record at this point the written statements from the following organizations and individuals: Amnesty International, CARE, Christian Peacemaker Teams, Human Rights Watch, International Center for Transitional Justice, Physicians for Human Rights, Women Thrive Worldwide, Women's Commission for Refugee Women and Children, Eve Ensler, Colin Thomas-Jensen of ENOUGH, and Daniel Rothenberg of DePaul Law School's International Human Rights Law Institute. Without objection, these will be included in the record.

The record will remain open for a week for additional materials from interested individuals or organizations. Written questions for the witnesses must also be submitted by the close of business one week from today, which we will ask the witnesses to respond to, if they can, in a timely fashion.

As we close this hearing, I want to urge everyone listening to contemplate the challenge that Dr. Mukwege posed to all of us today when he said that the eyes of the women and girls who have suffered unimaginable wartime violence in his Democratic Republic of Congo and countries around the globe are fixed on all of us. We have a moral obligation to take action to help these brave survivors and to stop the use of rape as a weapon of war.

This hearing will stand adjourned.

[Whereupon, at 11:30 a.m., the Subcommittee was adjourned.]

[Submissions for the record follow.]

SUBMISSIONS FOR THE RECORD

Rape as a Weapon of War: Sexual Violence in Armed Conflict
Testimony Submitted to the Senate Judiciary Committee, Subcommittee on Human Rights and the Rule of Law
Alexandra Arriaga
Amnesty International USA
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Thank you to Chairman Richard Durbin, Ranking Member Tom Coburn and the Senate Judiciary Subcommittee on Human Rights and the Rule of Law for bringing attention to this horrific issue. This testimony will focus on violence against women during violent conflict, briefly touch on the international human rights framework to address these abuses, and offer recommended actions for the United States to take. More information is available at: amnesty.org and amnestyusa.org.

Over the last two decades, there have been improvements in the way that women's human rights are treated within the international human rights framework. In recent years, the international community has come to acknowledge that women and girls often are targets of abuse because of their gender – whether in conflict where rape is a weapon of war, in communities such as in schools, or in the home where violence occurs within the family. These conditions were previously overlooked as an unpreventable consequence of war, dismissed as a so-called cultural norm, or ignored as a private matter.

Today the human rights and international communities are stating clearly that such abuses against women constitute human rights violations and that governments have a responsibility to prevent, prohibit and prosecute such crimes.

As you may know, Amnesty International is a worldwide human rights organization with more than 2.2 million members and supporters in more than 150 countries and territories who are committed to taking action to prevent and end grave abuses of all human rights. In 2004, Amnesty International launched a campaign to Stop Violence Against Women around the world. We have issued numerous reports on violations and abuse during armed conflict, and offered detailed recommendations for action by governments, international organizations and armed groups, including reports on Afghanistan, Burundi, Chad, Colombia, Darfur/Sudan, Democratic Republic of Congo, Iraq, Israel and the Palestinian Territories, Kosovo, Japan, Liberia, Nepal, Russia, Sierra Leone, Uganda and other countries.

This testimony will cover violence against women in armed conflict, focusing on rape and other types of physical violence. It discusses the way rape in armed conflict affects other issues such as trafficking and sexual slavery, internally displaced persons and refugees, HIV/AIDS, child soldiers, economic hardship, survivor issues, impunity, and the role of women in reconstruction. It encompasses the difficulties in documenting rape in armed conflict and discusses the treaties and other international instruments to protect women and children.

It recommends five US policy initiatives, including passage of the International Violence Against Women Act (S. 2279), US promotion of legal protections, and US ratification of the Treaty for the Rights of Women, officially known as the Convention on the Elimination of All

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Forms of Discrimination Against Women (CEDAW). It also recommends continuing US leadership at the Security Council of United Nations (UN) to strengthen the UN's response to rape and sexual violence, and to create a stronger UN women's entity.

The topic before us is real. The decisions we make affect the lives of individuals. We must remember the human face; and that this is not an abstract policy discussion.

So I'd like to begin with the words of a woman who spoke to Amnesty International who was a Darfur refugee. She did not want to share her name, but she did share her story:

> *"They beat us and told us that you blacks are not going to stay here, we will finish you all. Then they grabbed my half-sister, who was only ten years old ... I saw two of them lie with my half-sister and then they went away. When we got there she was very hurt and was bleeding. She continued to bleed for the following two days and then died.""* (A displaced woman in a Chad refugee camp described an attack by uniformed men near Goz Beida in Chad to Amnesty International in November of 2006).

This attack was against a displaced woman in Chad, but it could just as well have taken place in virtually any conflict zone or country where abuses occur, and it could have been perpetrated by government soldiers, members of armed groups, or common criminals. Amnesty International just sent a mission to Liberia and we found that, though the fighting has ended, girls and boys, women and men, are still experiencing trauma and living in fear, as do millions more around the world today.

To a person who is threatened or the victim of a human rights violation, it does not matter who perpetrates the crime, or which provisions of the Universal Declaration of Human Rights (Universal Declaration or UDHR) prohibit the action. All that matters is that they have been attacked, their human rights violated, their sense of security shattered. The road to becoming a survivor is a hard one, and all of us have a role to play to diminish the number of victims and to assist the abused to become survivors.

Violence Against Women and Children in Armed Conflict

Violence against women is a global human rights scandal that affects everyone, and one of the most pervasive and ignored human rights violations in the world. Every day, women and girls around the world are threatened, beaten, raped, mutilated, and killed with impunity. Worldwide at least one of every three women – nearly one billion women – will be beaten, coerced into sex, or otherwise abused in her lifetime, whether at the hands of family members, government security forces, or armed rebels.

In conflict and post conflict situations the statistics for discrimination and violence against women and girls are staggering. Although less likely than men to be combatants, women constitute the greatest proportion of the adult civilian population killed in war and targeted for violence. Discrimination is a root cause of violence; once you create a subordinate or unequal relationship, it becomes easier to deny rights, abuse, and dehumanize the alleged "lesser" of the two.

Violence against women in armed conflict situations is largely based on traditional views of women as property, and often as sexual objects. Around the world, women have long been attributed the

role of transmitters of culture and symbols of nation or community. Violence directed against women is often considered an attack against the values or "honor" of a society and therefore a particularly potent tool of war. Therefore women in armed conflicts are often treated as sexual objects, as presumed emblems of national and ethnic identity, and as female members of ethnic, racial, religious, or national groups. Girls as young as eight and women as old as eighty have been raped and mutilated in recent conflicts, and these crimes have been inflicted in the open, in front of families and communities. Children are victims of grave abuses including forced soldiering, heightened poverty, increased susceptibility to disease and infection, and the physical and psychological hardships of violent conflict.

The consequences for victims of sexual violence in war are severe and may affect the woman or child for the rest of their life. These consequences may include serious and chronic medical problems, psychological damage, life-threatening diseases such as HIV/AIDS, forced pregnancy, infertility, stigmatization and/or rejection by family and communities.

Rape and other Types of Physical Violence

Rape of women and girls by soldiers has occurred during wartime for centuries. Although rape as a weapon of war violates the Geneva Conventions and was specifically identified as a war crime by the Rome Statute establishing the International Criminal Court, rape continues in many conflicts. Its widespread use in times of conflict reflects the unique terror it holds for women and children, the unique power it gives the rapist over his victim, the unique contempt it displays for its victims, and the unique power it has to destroy the fabric of communities.

Rape in some circumstances can result in death or lasting injury. Female genital mutilation by infibulation, which occurs among some groups in Darfur and Eastern Chad, can increase the severity of injuries occurred during rape and contribute to severe blood loss.

While sexual violence during wartime is often directly linked to armed groups, military, or guerrilla fighters, not all violence is committed at the hands of warring parties. Frequently, the lack of law enforcement in war zones is exploited by civilians, sex traffickers, or international peacekeepers looking for amusement, business opportunities, or revenge. Threats and reprisals against those who reveal abuses and laws granting amnesty to wartime perpetrators as part of peace-making 'deals' all contribute to the impunity with which sexual crimes occur during war.

> *"I was taken away by attackers in khaki and civilian clothes along with dozens of other girls and had to walk for three hours. During the day, we were beaten... We were taken to a place in the bush where we were raped several times at night. For three days, we did not receive food and almost no water. We were surrounded by armed guards. After three days, the Janjawid had to move to another place and set us free." A woman from Darfur, interviewed by Amnesty International in Chad, 2004.*

The use of rape in conflict reflects the inequalities that women face in their everyday lives, even in peacetime. Until governments take responsibility for their obligations to ensure equality, end discrimination against women, and prosecute perpetrators, rape will continue to be a weapon of war.

Trafficking and Sexual Slavery

According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, human trafficking is the illegal recruitment, sale, transport, receiving of, and/ or harboring of human beings through force, deceit, coercion and abduction for the purpose of all forms of forced labor and servitude (Article 3(a)). Many cases of sexual violence during armed conflicts occur under conditions of slavery. Women and girls are enslaved for the sexual gratification of state agents, during which time they are denied the rights of autonomy or bodily integrity.

> *During the conflict in the former Yugoslavia, the town of Foca was the site of systematic rape and sexual enslavement by the Bosnian Serb and Yugoslav armed forces starting in 1992. Bosnian Muslim and Bosnian Croat women detained at the Partizan Sports Complex were taken every night to be raped and were denied medical care for injuries sustained from sexual abuse and beatings. A 12-year-old girl, detained for ten days in August 1992, was taken from the center ten times to be raped; her mother was taken twice. In February, 2001, at the International Criminal Tribunal, three Bosnian Serb men were convicted of 33 counts of war crimes and crimes against humanity, including the rape of Bosnian Muslim women and girls in Foca.*
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> *Among the prominent examples of sexual slavery was the system of rape camps organized by the Japanese Imperial Army during World War II, where more than 200,000 women and girls were enslaved in "comfort stations" throughout Asia.*
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> *In northern Uganda, the Lord's Resistance Army (LRA) abducts children, forcing girls into "marriage" and institutionalized rape. Men are "given" women and girls as rewards for "good behavior," e.g. following orders to kill prisoners of war and captured villagers. The men then have total sexual control over their "wives" and "domestic helpers," subjecting them to rape and various other forms of violence.*

In the Democratic Republic of Congo, a sixteen year old girl told Amnesty International about her life after being recruited by a *mayi-mayi* group in South-Kivu, when she was 12.

> *"When the mayi-mayi attacked my village, we all ran away. In our flight, the soldiers captured all the girls, even the very young. Once with the soldiers, you were forced to 'marry' one of the soldiers. Whether he was as old as your father or young, bad or nice, you had to accept it. If you refused, they would kill you. This happened to one of my friends. They would slaughter people like chickens ... they would not even bury the bodies they slaughtered – they would even feed on their flesh.*
>
> *"I even saw a girl who refused to be 'married' being tortured. When a girl tried to escape, they would first cut out the girl's breasts and eat her private parts. Everyone could see when they were doing this. Wherever we were fighting, along the way, they would take the women and girls working in the fields. There were a lot of women and girls with us. I think it is because they took drugs, they were like crazy. They would take young girls, remove their clothes, and then would rape them. Sometimes, we all had to undress, even the old women. If you refused, they would kill you.*

"My 'husband' did not beat me too often. He would sometimes take other girls home, but at least he would not allow other soldiers to have sex with me. But one day, he was killed in an attack. I felt I was in danger and I should leave. On the way, as I was pregnant, I had my baby. I was alone in the bush, without medication. I still have pain from this. Then I went to the village of my "husband," but his parents rejected me and my child, after taking all my belongings. They blamed me for his death. I wanted to go home, but it is so far away, I was afraid the mayi-mayi would find me and capture me again. So, when I heard of the NGO, I came here. Now, I just would like a piece of cloth, so I could carry my baby, like other women do."

Sexual slavery and exploitation by security forces and armed opposition groups has long been documented in all parts of the world. Women and girls are particularly vulnerable to this modern day form of slavery. During wartime, the safety and economic situation of many women deteriorates so drastically that the offer of refuge and paid employment in another country may seem impossible to refuse, increasing their vulnerability to being trafficked. Frequently aided by government, police, and military, traffickers encounter few deterrents. Coercive tactics, including deception, fraud, intimidation, isolation, threat and use of physical force, or debt bondage are used to control trafficked women and girls.

Internally Displaced Persons and Refugees

Displacement is the most common consequence of armed conflict and women and children are the most affected civilian population. Women and children constitute more than half of the world's current refugee population, and refugee women and girls are particularly vulnerable to crimes of rape and sexual violence. While fleeing war and armed conflict in their homelands or region, women and children are victims of rape and sexual violence at the hands of security forces, border guards, locals, smugglers, and other refugees.

Throughout the Darfur conflict region (encompassing Darfur, Sudan, eastern Chad and northeastern Central African Republic), women have been and continue to be frequently raped by government-backed Janjawid militia and other parities to the conflict. Rape and other forms of gender based violence are generally perpetrated against women and girls who have left their IDP and refugee camps in search for food, water or firewood. One Darfuri witness reported to UN investigators, "They were raped by any man who wanted. Whenever any man came to them, the women were supposed to comply otherwise they were badly beaten."

The UNHCR estimates that women and girls comprise 70-80% of the world's refugee and internally displaced population. In flight, as well as upon arrival in an urban shantytown or refugee camp, women commonly experience violence at the hands of warring parties, opportunistic civilians or those who are supposed to be peacekeepers. Without a viable social or economic support network and often without male protection, displaced women are highly vulnerable to violence.

Unaccompanied women and girls are often regarded as common sexual property in refugee camps and frequently become victims of rape and sexual violence at the hands of security forces, border guards, camp guards, locals, smugglers, and male refugees. Others may face forced prostitution as well as coercion into sex in exchange for food, documents or refugee status.

Without a viable social or economic support network and often without protection, displaced women are highly vulnerable to violence.

Women seeking safety through asylum frequently encounter obstacles. Women are a minority of the principal applicants for asylum in wealthy countries of the North because women often lack the mobility and access to resources necessary to apply for asylum. Asylum often is out of reach since women are the majority of primary caregivers and cannot undergo separation from the family. The asylum process itself, which requires applicants to tell officials what has happened to them – often repeatedly and in excruciating detail– works against women survivors of sexual violence. Many are too ashamed or traumatized to tell their stories or fear that their experience will preclude them from eligibility because of a widespread reluctance to recognize all forms of violence against women and girls as grounds for asylum. Processes for seeking asylum often require long detentions where further rape and sexual violence can occur.

HIV/AIDS

Violence, especially coerced sex, increases a woman or child's vulnerability to becoming infected with HIV infection. Violence and fear also limit their ability to negotiate safe sexual behavior even in a consensual encounter. The devastating consequences of conflict on healthcare systems already in ruins only exacerbates the impact of violence against women and girls on the spread of AIDS.

One seventeen year old girl in Uganda told Amnesty International that in December, 2006, she was raped by a UPDF soldier.

> *"The rape ordeal has left me devastated. My body system is totally destroyed as [a] result of the ordeal... I conceived as a result of the rape and worse, on medical examination about four months later, I tested HIV positive ... As a result my marriage is in a lot of difficulty. My husband does not understand my situation and constantly blames me for the incident."*

Child Soldiers

Government security forces and armed groups recruit and abduct children for armed hostilities, destroying their childhood and their future. Boys and girls, including kids under the age of ten, have been used as cheap and expendable tools of war. While many children have been driven to join as a result of witnessing atrocities, a lack of food, or social exclusion, others have been captured and torn from their families. Poverty and years of violent conflict have made it easier for a whole generation of children to be drawn into the armed conflict. For some children, soldiering has been a form of survival or has represented a form of identity, while others have been drawn in, sometimes after years of indoctrination, by the political, ethnic or military agendas of their chosen group.

> *Jacques from the Democratic Republic of Congo told Amnesty International in 2003 he was 10 years old when he was recruited into the Mayi Mayi insurgent group. "I remember the day I decided to join the mayi-mayi. It was after an attack on my village. My parents, and also my grand-father were killed and I was running. I was so scared. I lost everyone; I had nowhere to go and no food to eat. In the mayi-mayi I thought I would*

be protected, but it was hard. I would see others die in front of me. I was hungry very often, and I was scared. Sometimes they would whip me, sometimes very hard. They used to say that it would make me a better fighter. One day, they whipped my [11-year-old] friend to death because he had not killed the enemy. Also, what I did not like is to hear the girls, our friends, crying because the soldiers would rape them. "

Economic Hardship

During armed conflict and post-conflict, women are often forced to take on the full responsibility for the household and finances absent a husband or partner. In many countries, the legal obstacles women face have dire consequences on the family and children. With their husbands absent, "disappeared" and possibly dead, women face the desperate challenge of caring for themselves and their children, while frequently facing denial of property rights and access to employment. Faced with a chronic lack of resources in order to provide for their families, women and children may feel compelled to engage in work in the informal employment sector placing them at increased health and security risks. An increase in poverty and lack of economic opportunity also increase women's vulnerability to trafficking and sexual exploitation.

In April, 2003, Sanguina and her friend, Miriam, were raped at gunpoint by three soldiers from one of the warring parties in eastern DRC as they walked to their fields near Walungu. In October, 2003, Sanguina was raped again, this time in her home, by another soldier. She became pregnant after this rape and, in March, 2004, when she told her story to Amnesty International, she was close to despair.

"In the community, they made such fun of me that I had to leave the village and live in the forest. Today, the only thing that I can think about is that I want an abortion. I am hungry; I have no clothes and no soap. I don't have any money to pay for the medical care. It would be better if I died with the baby in my womb."

Survivors of Rape and Sexual Violence

Women and children who survive sexual violence during armed conflict must receive assistance to recover from and address the physical, psychological, social, and cultural repercussions of that violence. Physical consequences may include sexually transmitted infections including HIV/AIDS, mutilation, gynecological problems, pregnancy, post-traumatic stress disorder, and depression. Social and cultural consequences may include rejection by family members and the community and other social stigmas, including the inability to marry and isolation. Frequently, the physical and mental health services necessary for women to move forward with their lives are unavailable to women and children during and in post-conflict situations, especially for those living in rural areas.

The consequences for victims of sexual violence in war are grave and may affect women and girls for the rest of their lives. These include serious chronic medical problems, psychological damage, life-threatening diseases such as HIV/AIDS, forced pregnancy, infertility, and stigmatization and/or rejection by family member and communities.

Poverty, a patriarchal society, and a culture in which rape and sexual violence are not taken seriously, are all factors which contribute to a situation where many women are too afraid to

report crimes. Many women victims of rape fail to seek redress and are not supported by the state, the community and their family. Women often do not report rape because they fear reprisal attacks from the perpetrator. A common misconception is that rape is the victim's fault – a result of the victim's behavior or the clothes she wears. The victim's family, friends and community often ostracize the victim, leaving her alone and destitute. Certain customary practices that deny women certain rights, including the right to own or inherit property, increase the economic dependency of women on men. Some victims of rape told Amnesty International delegates about their reluctance to instigate legal proceedings for fear that they may lose the economic support of their family or spouse. Other economic factors contribute further to the vulnerability of women, including poverty, a lack of education, and access to information and health care.

Impunity

Violence and abuse will continue until those responsible are held accountable for violations and abuse under domestic laws in accordance with international human rights and humanitarian law.

Factors contributing to impunity to crimes in war are many, and include:

- An overall climate of indifference towards many forms of violence against women;
- The wrongful but tacit acceptance of rape and other sexual violence as an unavoidable part of war;
- Threats and reprisals against those who reveal abuses;
- Laws granting amnesty to perpetrators as part of peace-making 'deals'
- In addition, underreporting is a significant barrier to justice. Many women feel shame and fear rejection from their husbands, families, and communities if they report having been raped. The threat of divorce or the possibility of being considered "unmarriageable" causes many women's reluctance to report their experiences. The economic and social dependence of women on men in many societies contributes to their fear of reporting rape.

Governments have a responsibility to ensure the pursuit of justice in accordance with international standards for fair trials, to strengthen the independent judicial system in their country, and to require adequate training for law enforcement, judicial officials, and security forces to prevent and assist victims of violence against women and children.

The Role of Women in Reconstruction

Women must be included as full participants in all aspects of reconstruction: drafting agreements, laws and possibly national constitutions; planning for demobilization and reintegration of combatants; designing economic development and building of homes and schools; and devising programs to clear landmines and provide of rehabilitation and health care services. Local women's organizations are often active both during and after armed conflict. However, their role is frequently marginalized during national peace negotiations and periods of reconstruction, and therefore women's rights have often been sacrificed at the altar of national unity. Women and children account for the vast majority of those adversely affected by armed conflict, and they have an important role in the prevention and resolution of conflicts. Women must have equal participation and full involvement in all peace-building efforts and issues affecting women and children must be addressed during this critical time. As Dr. Theo-Ben Guribab, Namibia's former Minister of Foreign Affairs and former UN Security Council

President, said, "Women are half of every community … Are they, therefore, not also half of every solution?"

During reconstruction, the specials needs for women who have faced the trauma of armed conflict need to be addressed, and the inclusion of women throughout the process would greatly assist in addressing the inadequacies in the current system. According to an upcoming Amnesty International report on post-conflict Liberia, the UN rejected attempts from Liberian women's groups to participate in the planning of the Liberia Disarmament, Demobilization, Rehabilitation, and Reintegration Processes (DDRR) program.

Here is what one of the women's groups told Amnesty International:

> *"The policy in Liberia on female combatants was linked with that of child combatants and little mention was made of women's unique needs and contributions in the programme. The women who tried to get involved in the planning of the DDRR process were told to go home and take care of the children".*

As a result of the lack of local women groups' involvement as well as other factors, thousands of women and girls formally associated with the fighting forces did not participate in the DDRR for reasons such as misinformation about the process, manipulation by commanders, and choosing not to participate. Many of the women and girls that did participate failed to fully benefit from the rehabilitation and reintegration programs because they did not sufficiently address women's issues such as a child care, an increased social stigma for being formerly associated with the fighting forces, and a high level sexual exploitation in schools. Involving women in the reconstruction process and creating special programs specific to their needs could have great positive implication throughout the post-conflict healing.

Difficulty in Documenting Human Rights Abuses Against Women and Children

Women and children who are victims of violence during armed conflict are often reluctant to talk about their suffering. Pressures from parties of the conflict, the government, the family or community all serve to intimidate many into silence. Continuing violence or conflict often prevent reporting. In many regions, reprisal, shame, and social stigma are attached to rape. Fear of the consequences of reporting sexual violence-- such as facing rejection, alienation, divorce, being declared unfit for marriage, and severe economic and social repercussions--all discourage women from reporting the violence suffered.

In Colombia, women who speak out for their rights face intimidation, violence, and even death from armed groups on both sides of the country's long-running internal conflict. Rape, mutilation, and violence against women and girls, have been used by army-backed paramilitaries and the security forces to generate fear and to silence campaigns for social, economic, and political rights. On July 21, 2003, a leading member of ANMUCIC, the National Association of Peasant, Black and Indigenous Women of Colombia, in the department of Cundinamara, was kidnapped by alleged paramilitaries:

> *"There was a grey truck with dark windows. They grabbed hold of me roughly and threw me inside. They had cartridge belts and were wearing military uniforms. They asked me my name, trampled on me and started driving off. It must have been six hours before they let me out. I asked where we were going and they said that they were taking me for a*

drive. They tied me up. It was dark, and I was thirsty and very afraid. They hit me and insulted me and asked me about other ANMUCIC leaders, they..."

She was unable to continue her account as the memory of what she went through that day came back to her and she broke down, sobbing. While in captivity, she was physically and psychologically tortured and subjected to serious sexual abuse.

Many countries have discriminatory laws making it difficult for women to access justice; conflict and its aftermath exacerbate the problems. Often, women face difficulties because the laws in their country are inadequate to deal with sexual violence in conflict, or because laws are interpreted indifferent ways that facilitate impunity. National courts may have no jurisdiction over soldiers who are foreign nationals or it may be impossible to seek their extradition. The code of military law may not expressly address violence against women. In Mexico, for example, where a number of indigenous women have been raped by government soldiers in the state of Guerrero over the past decade, all the cases have been transferred to the military jurisdiction, which has consistently failed to conduct proper investigations, guaranteeing that the alleged rapists go unpunished.

Women's experiences have been marginalized from the political and human rights agenda in times of emergency or in the aftermath of conflict. One reason such abuses have remained hidden is the customary separation between the "public" and "private" spheres of life, with so-called private violence against women not seen as a proper realm for action by national and international courts.

Other reasons include the difficulty of prosecuting sexual crimes, a difficulty exacerbated in times of conflict that contributes to the impunity enjoyed by so many perpetrators of sexual violence. Knowing this, many women choose not to report rape. A twenty-eight year old woman from Bubanza, Kinama Bujumbura, recounted:

"In 2003, I was raped by two unidentified soldiers who attacked me when I was looking for firewood. I had a child from the rape, but it was born dead. I would have liked to have a husband and children, but I have lost all hope now. Each time that a man finds out that I have been raped, he leaves me."

Many women hide or deny the abuse for fear of social stigma, or because their coping mechanisms may dispose them not to publicize or seek redress for the abuses they have suffered. Social stigma is greatly increased by the failure of the states to prevent and prosecute sexualized violence, leading women to feel doubly victimized in their attempts to seek justice.

Treaties and other International Instruments

Amnesty International has stated that violence against women and children, as defined in international standards, is prohibited at all times, in all its forms, by international and regional treaties, as well as by customary international law.[i] Even in times of armed conflict, women and girls have the right to be free from crimes that constitute violence against women.[ii] Situations of conflict, military occupation and militarization often lead to a greater incidence of violence against women, including but not limited to sexual violence, which require specific protective and punitive measures.[iii] Women's experience of these forms of violence differs depending on a

number of factors including race, class, ethnicity, sexual orientation, age, nationality and economic situation.

Amnesty International seeks to complement and contribute to the efforts of women's organizations and others to combat violence against women before, during, and after armed conflict. Amnesty International calls on all involved to implement measures for the prevention of violence against women. It also seeks to promote a broader human rights agenda, calling for women's full participation in processes relating to conflict prevention, conflict resolution and peace-building.

To effect real change, action is needed now, internationally, regionally, and nationally. All governments must respect, protect, and fulfill women's right to freedom from crimes of violence, both in peacetime and in armed conflict. All other parties to armed conflict, and those in a position of influence, must similarly ensure that these and other fundamental rights are not abused. Amnesty International's recommendations include ratification, support and implementation of treaties and other international instruments. The US should also promote legal protections.

Legal mechanisms are in place for the protection of women and children, but governments must ensure these provisions are implemented so that the human rights of women and children are respected during times of armed conflict. It is crucial that the United States urge governments around the world to ratify relevant international treaties, support international agreements and move quickly to ensure their full implementation. It is also imperative that the US set an example and ratify crucial international instruments. Several treaties address the specific human rights of women and children and abuses they may face in armed conflict.

The Geneva Conventions: Many acts of sexual violence – including rape, gang rape, sexual slavery, and sexual mutilation – constitute torture under customary international law. These acts are considered war crimes and constitute grave breaches of the Geneva Convention.

The UN Declaration on the Elimination of Violence Against Women: EVAW defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life."

The Convention on the Elimination of all forms of Discrimination Against Women: CEDAW defines discrimination against women as any "distinction, exclusion, or restriction made on a basis of men and women which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality or men and women, of human rights or fundamental freedoms in the political, economic, social, cultural, civil or any other field."

General Recommendation No. 19 of CEDAW: There is recognition that gender-based violence is a form of discrimination covered by this convention. To combat gender-based violence, States must employ effective, preventative and protective measures to ensure that women's human rights remain intact.

The Convention on the Rights of the Child: Provisions in the convention protect children against sexual abuse and exploitation, to protect them against abduction, sale and trafficking, and

to protect them against armed conflict and becoming armed soldiers. The treaty comprehensively sets out the political, civil, economic, social and cultural rights of children, defined as girls and boys less than eighteen years of age.

The Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography: The Protocol criminalizes the sale of children, illegal adoption, child prostitution and pornography.

The Optional Protocol to the CRC on the Involvement of Children in Armed Conflict: The minimum age for compulsory recruitment and participation in hostilities is eighteen years of age, and all States parties are called upon to collaborate to stop human trafficking.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children: The protocol defines human trafficking as the illegal recruitment, sale, transport, receiving of, and/ or harboring of human beings through force, deceit, coercion and abduction for the purpose of all forms of forced labor and servitude (Article 3(a)). Many cases of sexual violence during armed conflicts occur under conditions of slavery.

Convention 182 on the Worst Forms of Child Labor: The treaty defines the worst forms of child labor as "the forced or compulsory recruitment of children for use in armed conflict." Also among the worst forms of child labor, the treaty includes child prostitution, the sale and trafficking of children, debt bondage, slavery, forced use of children in armed conflict, and anything that harms the health, safety, or morals of children.

In recent years, international law has developed further to address the violation against women and children.

Rome Statute of the International Criminal Court: Gender crimes (including rape) are recognized as war crimes and crimes against humanity. The **Rome Statute's** definition of rape includes those situations where the victim is deprived of her ability to consent to sex, including providing sex to avoid harm or to obtain basic necessities. The **Rome Statute** also recognizes rape and other forms of sexual violence by combatants in the conduct of armed conflict as war crimes. It makes clear that, when rape and sexual violence are committed as part of a widespread or systematic attach directed against any civilian population, they are crimes against humanity and in some cases may constitute an element of genocide.

The International Criminal Tribunal for Rwanda: The ICTR provides the widest definition of rape in international law. It states that rape consists of a physical invasion of a sexual nature, committed on a person under coercive circumstances. Sexual violence, including rape, is not limited to physical invasion of the human body and may include acts that do not involve penetration or even physical contact. Although the ICTR included the crime of rape as a crime against humanity, it omitted rape from other categories of crime.

UN Security Council Resolution 1325: This resolution emphasizes the responsibility of all states to put an end to impunity and to prosecute those responsible for war crimes relating to sexual and other violence against women. It calls for an increase in the participation of women at decision-making levels in conflict resolution and peace processes and calls for the protection

and respect of human rights of women and girls during the reconstruction process, particularly as they relate to the constitution, the electoral system, the police, and the judiciary.

The Windhoek Declaration: Adopted by the United Nations in May, 1991, this specifically acknowledges the need for the preservation of women's human rights and gender equity during periods of post-conflict. Specifically, it calls upon UN members to ensure women remain free of physical and mental violence. In addition, the Declaration calls for the integration of gender issues in any UN peacekeeping missions, for equal involvement of women in ceasefire and peace talks, and for the appointment of women to relevant high-ranking UN posts.

Recommendations: What Should the US Government Do?

Amnesty International is urging the United States to take five important policy steps to help women globally. It should adopt the International Violence Against Women Act (I-VAWA), promote international legal protections and ratify the Treaty for the Rights of Women (CEDAW). It should also continue to play a leadership role in the Security Council at the United Nations to combat rape and other sexual violence and support the creation of a stronger UN Women's entity.

Pass the International Violence Against Women Act

In addition, the United States should act to adopt the International Violence Against Women Act (I-VAWA), authored by the bi-partisan team of Senators Joseph Biden (D-DE) and Richard Lugar (R-IN). The International Violence Against Women Act (S. 2799) creates a comprehensive, integrated approach to addressing violence. Coordinated by Amnesty International USA, Family Violence Prevention Fund, and Women Thrive Worldwide, the legislation was designed with input from 40 international and 150 US-based groups with relevant expertise.

Specifically, the bill would:

- Support survivors, hold perpetrators accountable, and prevent violence.
- Integrate efforts to end violence against women and girls into existing, appropriate U.S. foreign assistance programs.
- Establish one central State Department Office for Women's Global Initiatives to coordinate the United States policies, programs, and resources that deal with women's issues.
- Create a five-year strategy to fight violence against women in 10-20 selected countries.
- Incorporate best practices on addressing violence against women into programs that prevent violence, encourage legal reform and changes in public attitudes, promote access to economic opportunity projects and safe schools, and support healthcare. It authorizes $175 million for these programs.
- Enable the US government to develop a faster and more efficient response to violence against women in humanitarian emergencies and conflict-related situations. It requires training and reporting mechanisms for humanitarian and other workers.
- Enhance the capacity of the US government to develop emergency measures to respond to mass rape including efforts to provide direct services to victims and hold accountable perpetrators.

- Encourage U.S. collaboration and funding for UN efforts to end violence against women.
- Build the effectiveness of overseas non-governmental organizations - particularly women's nongovernmental organizations – in addressing violence against women.

The bill also has a specific section related to "critical outbreaks" of violence against women and girls being used as a weapon of intimidation and abuse in situations of conflict and war. It states that the Secretary of State shall develop emergency measures to respond to the outbreak, and shall notify Congress with a description of the measures, including:

- bilateral and multilateral diplomatic efforts with the government in which the violence is occurring, governments of the surrounding region, and allied governments
- diplomatic efforts in international platforms such as the UN
- efforts by the US government to protect women and girls at risk in a critical outbreak region, to urge all parties to the armed conflict to protect women and girls, and to facilitate the prosecution of those responsible for the violence in a critical outbreak area.

I hope you will join us in supporting adoption of this bill, ensuring the funds necessary to carry out the work are appropriated, and pressing for effective implementation of the bill.

Promote Legal Protections

The United States has a responsibility to press for legislative reform and to facilitate implementation of laws and policies that ensure women the same rights as men. This is especially the case in areas of property rights, access to employment, access to health services, and education for women and girls, as well as on laws relating to citizenship, the rights to enter into marriage willingly, and to have the same legal rights as men as parents of their children.

The United States should provide assistance for legal reforms that promote and protect fulfillment of human rights for women and children, and facilitate contact and collaboration with international organizations, including the United Nations mechanisms, which can assist and advise legislatures on legal reforms and policy implementations to support women and children. The US should also increase its training of foreign security forces on addressing violence against women in armed conflict and on codes regarding sexual exploitation and abuse.

Ratify the Treaty for the Rights of Women

The Treaty for the Rights of Women is the most complete international agreement on basic rights for women. The Treaty is officially known as the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The United States played an important role in drafting the Treaty, which 185 nations have ratified as of April 1, 2008. Ironically, the United States is now one of only eight countries that have yet to ratify CEDAW, alongside Sudan, Somalia, Qatar, Iran, Nauru, Palau and Tonga.

The Treaty for the Rights of Women addresses basic human rights of women and can be a useful tool to reduce violence against women, ensure access to education and health care, and provide legal recourse against violations of women's human rights. The Treaty espouses the powerful principle that human rights of women are universal across all cultures, nations, and religions, and

worthy of being guaranteed through international human rights standards. It is time for the United States to stand firmly for the rights of women internationally by ratifying this Treaty.

Women around the world have used the Treaty to achieve important reforms in their country that reduce violence and discrimination. Measures have been taken against sex slavery, domestic violence and trafficking of women; millions of girls previously denied access to schooling are now receiving primary education; women's health care services have improved, saving lives during pregnancy and childbirth; and millions of women have secured essential loans and the basic right to own or inherit property.

Treaty ratification commits nations to take concrete action to improve the status of women and to reverse discrimination and end violence against women. By ratifying CEDAW, the United States would have greater moral authority in urging other states to do more to address sexual violence in conflict, through the ratification and implementation of relevant international instruments. For example, ratifying countries commit to:

- Take measures to ensure women can enjoy basic human rights and fundamental freedoms.
- Establish judicial procedures to ensure the effective protection of the rights of women.
- Take appropriate measures to eliminate discrimination against women by persons, organizations or enterprises.
- Submit national reports every four years on measures they have taken to comply with the treaty to protect and promote the rights of women in their country.

The Treaty has always enjoyed bipartisan support in the U.S., but has never come before the full Senate for a vote. The Senate Foreign Relations Committee has twice voted favorably – in 1994 and 2002 – with bipartisan support to send the Treaty to the Senate floor for ratification, but the Senate recessed each time before that occurred. The current Committee Chairman, Senator Joseph Biden, supports ratification.
In 2002, the Bush Administration notified the Senate Foreign Relations Committee that the Treaty for the Rights of Women was "generally desirable and should be approved." Later that year, then Attorney General John Ashcroft initiated another review of this Treaty. In February 2007, the Bush Administration indicated that it was not pressing for ratification at that time. The SFRC Chairman, Senator Joseph Biden, supports ratification. It is time for Senators to stand together in support of women and ratify CEDAW.

Continue US Leadership in the United Nations Security Council to Combat Rape and other Sexual Violence

The United States should play a leadership role as permanent member of the UN Security Council to ensure that it consistently addresses the use of rape and other sexual violence, particularly during its Presidency in June 2008. Amnesty International welcomes the US initiative in the 62nd Session of the UN General Assembly in 2007 which led to the adoption of Resolution 62/134 entitled "Eliminating rape and other forms of sexual violence in all their manifestations, including in conflict and related situations". The US should continue its initiatives so that violence against women stays on the UN Security Council agenda. It should ensure that Security Council missions consult with national and international women's groups, that women participate in the conflict resolution processes including in peace talks, and

systematic UN reporting on rape and other sexual violence is included in reports to the Security Council. The US should support the recommendation of the UN Secretary-General that the Security Council establish a mechanism dedicated to monitoring violence against women and girls, within the context of resolution 1325.

Support the Creation of a Stronger UN Women's Entity

For the UN to enable governments and the UN system to better achieve their commitments to addressing violence and discrimination against women, particularly in situations where the UN has a strong presence such as in conflict-affected countries, Amnesty International considers the establishment of a consolidated, stronger and fully-funded UN entity for women essential. US representatives at the UN should take the lead in supporting the creation of this entity.

The UN Secretary-General repeatedly voice his support for the creation of a stronger UN entity for women that should be able to "call on all of the United Nations system's resources in the work to empower women and realize gender equality worldwide" and "mobilize forces of change at the global level, and inspire enhanced results at the country level." We and many other states fully support this statement. In order for the new UN entity for women to effectively deliver on the ground, it must be led by a high level UN official such as an Under-Secretary-General, combine normative and operational functions, include a strong presence at country level, and promote more effective gender mainstreaming throughout the UN system and through national policies. Meaningful involvement of civil society, in particular women's non-governmental organizations, should be ensured in all its functions.

The concerns and recommendations are reflected in the Agreed Conclusions adopted at the 52nd Session of the UN Commission on the Status of Women in March 2008, including by the United States. In particular, the Commission expressed its concern at under-resourcing in the area of gender equality in the UN system, including the UN Development Fund for Women (UNIFEM). The Commission also urged Governments to strengthen coordination, accountability, effectiveness and efficiency in the United Nations system, through more effective mainstreaming and enhancing its capacity to effectively assist States, and to that end, make adequate and reliable human and financial resources available.

Additionally, Amnesty has specific recommendations for improving human rights conditions for women in specific countries and for addressing violence against women in armed conflict.

Additional Recommendations to Address Violence Against Women in Armed Conflict

Amnesty International published a report entitled "Lives Blown Apart: Crimes Against Women in Times of Conflict" (ACT 77/075/2004), which includes the following recommendations to governments and the international community to stop violence against women in armed conflict and post-conflict:

1. **Condemn violence against women in any circumstances – all parties to armed conflict must:**
   - Publicly denounce gender-based violence, whenever and wherever it occurs.
   - Issue clear instructions to their forces to refrain from all forms of violence against women.
   - Train all their armed forces and other personnel on the rights of civilians and combatants no longer participating in hostilities to protection, including the prohibition of violence against women.

2. **Commit to ending impunity for violence against women – governments (and where appropriate armed groups) must:**
   - Ensure that laws, rules, regulations and military orders prohibit violence against women and provide for disciplinary and criminal punishments for perpetrators, while respecting human rights standards.
   - Establish adequately funded, independent and transparent monitoring and inquiry mechanisms with the power to promptly investigate any credible allegations of violence against women and make public their findings.
   - Suspend from duty, pending investigation, any member of the police, security forces or other state organization implicated in violence against women.
   - Bring all those responsible for acts of violence against women to justice in fair trials that pay attention to the particular needs of women subjected to violence, including sexual abuse, and exclude the death penalty.
   - Ensure that crimes of violence against women and other human rights violations committed by soldiers against civilians are not subject to military jurisdiction.
   - Cooperate in bringing to justice perpetrators of serious crimes by armed groups through the exercise of extraterritorial jurisdiction and support for international judicial bodies such as the International Criminal Court.
   - Exclude crimes relating to sexual and other forms of violence against women from amnesty provisions.
   - **Armed groups** should establish accountability within their ranks for any acts of violence against women, ensuring that any disciplinary measures are consistent with basic human rights and humanitarian principles.
3. **Provide full, effective and prompt reparations to survivors of violence – governments, the UN and other relevant international bodies must:**
   - Facilitate national and international programmes of humanitarian assistance to survivors of violence, including providing emergency healthcare programmes.
   - Ensure all survivors of violence have access to reparations, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition.
   - Ensure adequate provision of programmes that provide medical, psychological, social and legal support for survivors of rape and other forms of sexual violence, including those living with HIV/AIDS.
   - Launch public awareness campaigns to challenge the stigma aimed at survivors of sexual violence and people living with HIV/AIDS.
4. **Take steps to prevent violence against women in armed conflict – all governments must:**
   - Encourage and support monitoring mechanisms to combat violence against women, which should establish time-bound and measurable targets to end violence against women.
   - Maintain reliable, up-to-date statistics on the incidence of and complaints relating to violence against women and how they are dealt with, in order to develop gender-sensitive policies, programmes and service delivery for women.
   - Introduce education and public information programmes to help eliminate violence against women and to counter prejudices and gender stereotypes about men and women that can give rise to it. Custom, tradition, religion or culture should not be invoked to avoid governments' obligations to eliminate such violence. Governments should encourage the media to observe

and promote respect for women's physical integrity and ensure that any incitement to gender-based violence is prohibited in law and practice.

- Ensure the increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention of conflict.
- Repeal or amend discriminatory laws which constitute or facilitate violence against women, or which act as a barrier to accessing remedies for violence, including in the areas of property rights and inheritance, and access to healthcare, housing, work, property, food and water.

5. **Ensure violence against women is prohibited in national law as a criminal offence with effective penalties and remedies for all forms of violence against women in armed conflict – all governments must:**

- Ratify, without reservations, and implement through national law relevant international human rights and international humanitarian law treaties (see Appendix 2). Implement fully other relevant standards including the UN Declaration on the Elimination of Violence against Women, UN Security Council Resolution 1325 on women, peace and security and the Beijing Declaration and Platform for Action. Ratify the Convention on the Elimination of All Forms of Discrimination against Women, without reservations, and its Optional Protocol allowing the right of individual petition.
- Ratify the Rome Statute of the International Criminal Court and enact implementing legislation. Enact legislation permitting the exercise of universal jurisdiction for crimes under international law, including genocide; crimes against humanity; war crimes; torture including rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; extrajudicial executions; and "disappearances".

6. **Ensure peacekeeping and other field operations forces do not violate women's human rights – the United Nations and all governments contributing to these operations must:**

- Develop and enforce codes of conduct for all their forces to protect women from gender-based violence, including sexual exploitation and trafficking.
- Ensure all such forces are adequately trained in the protection of women's human rights, for example by distributing the UN Secretary-General's Bulletin on *Special measures for protection from sexual abuse and sexual exploitation,* ensuring that its provisions are effectively observed.
- Employ staff with the expertise and capacity to protect women from violence, including through monitoring and investigating allegations of abuse.

7. **End the misuse of arms to perpetrate violence against women – all governments must:**

- Stop the manufacture, transfer, stockpiling and use of landmines and ratify, implement and monitor the 1997 Mine Ban Treaty.
- Respect and enforce arms embargoes to prevent transfers that could contribute to grave human rights abuses and impose effective controls on all international and national arms transfers to ensure that they are not used to commit human rights abuses, including violence against women.
- Effectively remove unlawful weapons at the community level by working with women's organizations and other civilian community organizations and ensure these organizations are effectively involved in peace agreements and disarmament, demobilization and reintegration programs.
- Support efforts to agree an international arms trade treaty to help stop the proliferation of weapons used to commit human rights abuses, including violence against women.

- Impose and enforce a moratorium on the use of cluster weapons; and on the use of depleted uranium weapons pending authoritative conclusions on their long-term effects on health including women's health.

8. End support and assistance for governments and armed groups which could result in violence against women – all those providing such support, whether other governments, businesses or organizations, must:

- Publicly condemn all forms of violence against women.
- End the provision of any logistical, financial or military assistance to governments or armed groups which could reasonably be assumed to result in violence against women.
- Use their influence to stop further abuses by governments or armed groups they have been supporting.

9. Provide assistance and protection to refugees and internally displaced women – governments, the UN and other relevant international bodies must:

- Give effective protection to refugee and displaced women from sexual and other exploitation by all involved, including international humanitarian workers.
- Involve women in the design, planning and running of all camps for refugees or internally displaced people and in repatriation and resettlement programmes.
- Take into account the health and other needs of women and ensure adequate resources are provided.
- Establish an effective, independent and transparent mechanism to investigate complaints of violence against women that occur in camps for refugees or internally displaced people.
- Ensure that agencies which provide protection for asylum-seekers, refugees and internally displaced people are adequately resourced.
- Ensure that asylum policies take into account persecution on the basis of gender, including the risk of sexual violence in armed conflict zones; and that all refugee and displaced women are registered individually and issued with their own separate identity documents.

10. Stop the use of child soldiers – all parties to armed conflict must:

- Make a public commitment not to recruit into their armed forces those under the age of 18 or to employ them directly in hostilities, and hold to that commitment.
- Set up programmes to demobilize, disarm and rehabilitate child soldiers that take into account the rights and particular needs of girls.
- Give priority to rehabilitation schools, improving access to basic education for girls and encouraging vocational training and higher education for girls and young women.

11. Ensure that human rights defenders can carry out their work without fear – all parties to armed conflict must:

- Publicly commit to ensuring that human rights defenders working on violence against women and other human rights issues can carry out human rights work in situations of armed conflict without fear of retaliation or punishment by adopting, publishing and implementing a comprehensive policy on the right to defend human rights which:
    - strengthens support for the role of human rights defenders and fully respects the provisions of the UN Declaration on Human Rights Defenders;
    - includes action to ensure that human rights defenders have unrestricted access to survivors of abuses, especially women, in areas affected by armed conflict;

- o includes action to recognize and protect the unique contribution of women human rights defenders to the promotion of human rights.

12. Involve women fully in peace processes – all governments, the UN and relevant international bodies must:

- Implement UN Security Council Resolution 1325 in full.
- Ensure that women play a key role in the design and implementation of all peace-building initiatives.
- Ensure that women have full access to the resources and services provided by post-conflict reconstruction initiatives.
- Incorporate a gender perspective and promote gender equality in all peace processes, agreements and transitional government structures, ensuring that women have the right to participate at all levels of decision-making.
- Pay special attention to the health, rehabilitation and training needs of women in disarmament, demobilization and reintegration initiatives.

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[i] The UN Declaration on the Elimination of Violence against Women defines the term "violence against women" as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." (Article 1) Gender-based violence is violence that is directed against a woman because she is a woman or that affects women disproportionately.

[ii] In this chapter, Amnesty International uses the term "women" to include women of all ages, including girls.

[iii] CEDAW General Recommendation 19, para 16.

Testimony of
Dr. Kelly Dawn Askin
Senior Legal Officer
Open Society Justice Initiative

Before the
Subcommittee on Human Rights and the Law
Committee on the Judiciary
United States Senate

Rape as a Weapon of War:
Accountability for Sexual Violence in Conflict

April 1, 2008

Chairman Durbin, Ranking Member Coburn, and distinguished members of this Subcommittee, I commend you for taking up the issue of wartime sexual violence, a crime that is destroying the lives of millions of individual victims, their families and communities in dozens of conflicts world wide—but which is all too often ignored by those who can help. I am heartened and appreciative that this remarkable Subcommittee–which in less than a year has provided extraordinary leadership on ensuring accountability for genocide, gross human rights abuses, conscripting child soldiers and trafficking in women–is turning its sights to this horrific scourge and tackling one of the most frequently committed crimes.

My testimony will first briefly address the contemporary problem of wartime sexual violence worldwide. I will then provide an overview of the historical treatment of rape as a war crime, and highlight the key contemporary jurisprudence redressing sexual violence in the context of war or mass atrocity in the jurisprudence of international and hybrid courts established since the 1990s. Next, I will examine some of the reasons why women need justice and why punitive measures are necessary to both prevent rape crimes and to reverse stereotypes which attach to sex crimes and serve to perpetuate their commission. Finally, I will suggest action which can be taken by this Subcommittee to close loopholes in U.S. law which may deny accountability to those who commit, aid, and abet wartime sexual violence.

Global Context: Wartime Sexual Violence is Rampant Worldwide

In 2004, the Bush Administration set up the Darfur Atrocities Documentation Project in which the U.S. State Department and the Coalition for International Justice assembled dozens of investigators to interview over 1100 victims and witnesses in Chad about the crimes committed against them in Darfur. As a result of the testimonies, then-Secretary of State Colin Powell termed the Darfur crimes a genocide. I collaborated with this project, and at refugee camps and in makeshift huts on the border of Darfur, I met with camp leaders and women survivors who told heart-wrenching and consistent stories of

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gang rape, sexual slavery, and other crimes committed by the government of Sudan and their *Janjaweed* puppets. Earlier this year, I spent a couple of weeks in the eastern provinces of the Democratic Republic of Congo, where I met more survivors who told terrible stories of their own sexual abuse, as well as the rape of babies from eleven months old to 86-year-old women. I travel frequently to Rwanda, Uganda, and Sierra Leone, where sexual violence has been committed in epidemic proportions, affecting millions of lives. Rarely are these crimes prosecuted, particularly when government leaders are architects of the crimes. Rape is exceedingly common during armed conflict.

But make no mistake about it: sexual violence, including wartime sexual violence, is not just an African problem, it is a problem of enormous magnitude in every region of the globe. I have worked with each of the international and hybrid courts set up in the past fifteen years and have traveled to dozens of conflict and post-conflict zones. During the course of my work on international crimes and gender justice, I have had the opportunity to speak with rape and sexual slavery survivors of World War II from Europe and Asia, with women from Burma who have been subjected to rape campaigns by the Burmese military, with Cambodian women who were forced into marriage to Khmer Rouge soldiers in the late 1970s, with Bangladeshi/Bengali women raped during the war with Pakistan, with Haitian women who had their gang rapes amnestied, with women in East Timor who were held as sex slaves by Indonesian forces, with Iraqi and Kurdish women leaders who have shared stories of the sexual violence inflicted under the Saddam regime, with men and women from Chechnya who were raped with foreign objects, with women from Bosnia, Croatia, Serbia, and Kosovo who survived repeated or systematic rape, with Afghani girls who were sold into sexual slavery, and with women from Colombia, Guatemala, Argentina and Peru who were gang raped repeatedly during years of war and oppression. And their stories, like those of the women and girls in Africa, and those of some men, are strikingly similar. They were used and abused by men with weapons, often attacking in gangs, often committing the crimes in public, often in front of cheering crowds or before the victim's own families. They were often left naked, bleeding, and publicly displayed as a terrifying and very real threat to others as to what might happen to them—or their daughters, wives, mothers, or sisters—soon.

The Historical Treatment of Wartime Rape

I have been deeply involved in pursuing ways to redress wartime rape for the past 15 years. In 1993, I decided to seek my doctorate in law on the topic of Prosecuting War Crimes Against Women after meeting women who were survivors of rape camps in Bosnia-Herzegovina and hearing debate about whether the rapes they endured were even war crimes. I had never worked on women's issues or sexual violence up until that time, but as a lawyer I was shocked that as we approached the end of the 20th century, there was still confusion about whether international law prohibited wartime sexual violence. There was widespread acknowledgement that atrocities such as massacres, torture, and slave labor were prosecutable, but there was skepticism, even by legal scholars and military officials, as to whether rape was sufficiently serious to be prosecutable in an international tribunal set up to redress the worst crimes.

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My research found that wartime rape had indeed been outlawed for centuries, but the prohibition was rarely and only selectively enforced. Further, many of the laws were couched in obscure or antiquated terms, such as violating "family honour and rights" or committing "attacks against honor," "outrages upon personal dignity," or "indecent assault." In 1863 the United States codified customary international law in its U.S. Army regulation on the laws of land warfare. This code–known as the Lieber Code or General Orders No. 100–formed the cornerstone of subsequent codified humanitarian law and served as the foundation for military codes in many other countries. Article 44 explicitly declared that "all rape . . . is prohibited under the penalty of death" and Article 47 dictated that "[c]rimes punishable by all penal codes, such as ...rape... are not only punishable as at home, but in all cases in which death in not inflicted, the severer punishment shall be preferred."[1] Regrettably, the United States is no longer on the forefront of criminalizing and protecting against wartime sexual violence and the many different forms the crimes take in contemporary wars. It has been and remains one of the leaders however in establishing international accountability for atrocity crimes.

The United States played the lead role in setting up the landmark International Military Tribunals at Nuremberg and Tokyo to prosecute war crimes, crimes against humanity, and crimes against peace committed during World War II.[2] U.S. Supreme Court Justice Robert Jackson became the lead U.S. prosecutor of the Nuremberg trial of major Nazi war criminals, and General Douglas MacArthur, as the Supreme Allied Commander for the Far East, was the progenitor of the Tokyo trials. At these trials of the chief architects of the war and the atrocities committed against millions of innocent civilians, rape and other forms of sexual violence were implicitly, and to some degree explicitly, prosecuted. They were also prosecuted in some of the subsequent war crimes trials of so-called 'lesser' war criminals held in Germany and Japan. After reviewing tens of thousands of pages of transcripts of the postwar trials, it became clear to me that vast amounts of various forms of sexual violence had been documented and entered into evidence during trials, and that the sexual atrocities were subsumed within the judgments even if they were not highlighted or explicitly mentioned in them.[3]

While a variety of gender related crimes–including rape, enforced prostitution, forced sterilization, forced miscarriage, and forced nudity–were prosecuted at the Nuremberg and Tokyo trials, countless sex crimes were ignored. Let me mention just two examples: First, the sexual slavery to which the Japanese military subjected some 200,000 so-called "comfort women" was not prosecuted at the Tokyo tribunal, and to this day the survivors of these sex crimes have received no substantial legal redress. Second, as the Russian army advanced through eastern Europe towards Germany "an estimated two million women were sexually abused with Stalin's blessing."[4]

After the postwar trials, and in large part due to the Cold War, there were scant efforts to enforce the legal principles established at Nuremberg and Tokyo. For five decades, dictators, despots, and war lords around the world waged war on innocent civilians without facing a legal reckoning.

Gender Jurisprudence of Contemporary War Crimes Tribunals

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The crimes committed during the 1990s conflicts in the former Yugoslavia finally snapped the international community out of its complacency. Around the world people were horrified as stories of ethnic cleansing, murder, and mass rape camps emerged. In Bosnia-Herzegovina, it was reported that women and girls were repeatedly raped until they became pregnant and detained until they gave birth. Horror story after horror story continued until televised images of emaciated detainees behind barbed wire fences demonstrated that horrific crimes were again happening on European soil, evoking reminders of promises after the Holocaust that 'never again' would such acts be allowed to happen, much less go unpunished. A U.N. Commission of Experts investigated and reported that crimes, including sex crimes, were rampant.

As a result, the United Nations Security Council established the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993.[5] The Statute of the ICTY authorized prosecution of genocide, crimes against humanity and war crimes (grave breaches and violations of the laws or customs of war, including Common Article 3 to the Geneva Conventions). Rape was specifically listed as a crime against humanity in the Statute. The United States provided extraordinary leadership in establishing, supporting, and even staffing the ICTY, particularly in its formative years.

Less than a year after the Security Council established the ICTY, a genocide raged through Rwanda, with as many as 700,000 people massacred and hundreds of thousands of others maimed, raped, and otherwise brutalized during 100 days—the swiftest killing and raping spree in recorded history. By the end of 1994, the Security Council also set up the International Criminal Tribunal for Rwanda (ICTR) to prosecute war crimes, crimes against humanity, and genocide committed there.[6]

The Yugoslavia and Rwanda Tribunals have been unparalleled in their treatment of gender-related crimes, and this has had and will continue to have a major impact on other international or hybrid courts (courts having a mixture of international and national judges, prosecutors, and defense counsel and applying both domestic and international laws), namely the Special Court for Sierra Leone, the Serious Crimes Panels in East Timor, the Kosovo Regulation 61 Panels, the Bosnian War Crimes Chamber, and the Extraordinary Chambers in the Courts of Cambodia, as well as the permanent International Criminal Court.

Case law from these contemporary courts stands in marked contrast to the textual silence of the Nuremberg Tribunal when it came to crimes of sexual violence. Let me illustrate by briefly describing seven pioneering cases which set much of the precedent on a variety of gender-related crimes.

Akayesu Judgment

The most groundbreaking judgment in history on redressing crimes committed exclusively or disproportionately against women is the *Akayesu* Judgment, rendered by the International Criminal Tribunal for Rwanda (ICTR) in September 1998, which found

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rape to be a crime against humanity and an instrument of genocide.[7] In this case, the mayor of a commune in Rwanda was charged with twelve counts of war crimes, crimes against humanity, and genocide for murder, extermination, torture, and cruel treatment for crimes committed by individuals in his commune.

There were no sex crime charges in the original indictment. During trial, a witness on the stand spontaneously spoke of the gang rape of her six-year-old daughter by three *Interahamwe* soldiers and a subsequent witness testified that she had been raped and she had witnessed other rapes, prompting the prosecution—led by American prosecutor Pierre Prosper (who went on to become the U.S. Ambassador-at-Large for War Crimes Issues)—to conduct additional investigations to determine if Akayesu could be held responsible for sexual violence. Ample evidence of sex crimes was found, including evidence which attributed culpability to Akayesu and the indictment was thus amended to add rape charges.

Ultimately, Akayesu was convicted of nine counts of crimes against humanity and genocide. The Trial Chamber found rape formed part of a widespread and systematic attack against civilian women in the commune, constituting a crime against humanity. Moreover the Chamber found rape and other forms of violence were committed with a specific intent to destroy the Tutsi group by causing serious bodily and mental harm to members of that group—a crime defined as genocide under the 1948 Genocide Convention. The judges stressed that in Rwanda, "[s]exual violence was a step in the process of destruction of the Tutsi group—destruction of the spirit, of the will to live, and of life itself."[8] It was never charged that Akayesu physically committed any rapes himself. But he held a leadership position in his commune, and not only failed to forbid sexual violence when it was rampant, but also actively encouraged, by his words or presence, gang rape and forced nudity, and in some instances even ordered them. Many of these crimes were committed directly outside his office, a place where the community had fled to seek protection from attacks.

Čelebići Judgment

The *Čelebići* Judgment, handed down by the Yugoslavia Tribunal in November 1998, held superiors responsible for torture by means of rape. The Trial Chamber held concentration camp leaders responsible for, among other offenses, various sex crimes committed against both males and females by their subordinates in the camp.[9] Sex crimes were not charged explicitly in the indictment, as the charges were for such war crimes as torture, cruel treatment, inhuman treatment, murder, and plunder. The war crime of torture was charged in instances when a woman was repeatedly raped in an attempt to secure information, to punish her for reporting abuse, to intimidate her, or to discriminate against her because she was a woman of the opposing side. The Trial Chamber found that the rapes inflicted severe physical and mental pain on the victims. For instances when men's genitals were abused, the war crimes were charged as cruel treatment or inhuman treatment. When male detainees were forced to publicly perform fellatio on each other, the judges emphasized that if the war crimes charge had been rape instead of inhuman treatment, they would have convicted the accused of the former.

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The *Čelebići* Judgment noted that it is well established that people in positions of *de facto* or *de jure* authority can be held responsible for failing to act when they have a legal duty to control subordinates under their effective control, they know or should have known about criminal activity, and they fail to take necessary and reasonable measures to prevent the crime or punish the perpetrator(s) thereof. Two of the accused were thus convicted of command/superior responsibility for failing to act on crimes committed by subordinates.

Furundžija Judgment

The *Furundžija* Judgment, handed down by an ICTY Trial Chamber in December 1998, focused on the rape of one woman during one day of the conflict in Bosnia.[10] The accused verbally interrogated a woman while a fellow co-commander raped her in multiple ways, hence the accused was charged with the war crimes of torture and outrages upon personal dignity for the role he played in facilitating the rapes. Perhaps the most significant aspect of this case is the court's recognition that sexual violence does not need to occur as part of a package of crimes (e.g. the murder, rape, and pillage of a village) or on a widespread or systematic basis before it is prosecutable as a war crime. The rape of one person can constitute a serious war crime worthy of prosecution.

Kunarac Judgment

The *Kunarac* Judgment, handed down by an ICTY Trial Chamber in February 2001, represented the first time the Yugoslavia Tribunal rendered convictions for rape, enslavement, and torture as crimes against humanity for a series of sex crimes committed against a large number of women and girls in Bosnia.[11] The Chamber found the three accused guilty of enslavement for conduct essentially constituting sexual slavery. The Trial Chamber held that when the women and girls were held for weeks or months and repeatedly raped by their captors or persons to whom their captors rented them, and one young girl was eventually sold to a passerby for a box of washing powder (and was never seen or heard from afterwards), these acts constituted both rape and enslavement (the ICTY Statute lists 'rape' and 'enslavement' as acts which may constitute crimes against humanity; it does not specifically enumerate 'sexual slavery.') In essence, the defendants were exercising rights of ownership over the victims—a classic form of enslavement. One man was also convicted of "outrages upon personal dignity" for forcing women and girls to dance nude on a table to entertain soldiers and to humiliate and control the girls.

Kvočka Judgment

In November 2001, an ICTY Trial Chamber rendered the *Kvočka* Judgment, in which rape was found to form part of the persecution committed in a prison camp. The case was against five accused who had worked in or regularly visited the Omarska prison camp in Bosnia.[12] Judge Patricia Wald, the U.S. judge on the ICTY at the time, sat on this case and was the leading author of this judgment. (I had the great privilege of working with Judge Wald on this judgment as a legal consultant.) In Omarska camp, some 3300 men

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and 36 women were detained and subjected to a number of abuses, including sexual violence. The accused were charged with war crimes and crimes against humanity for murder, torture, rape, persecution, and inhumane acts. Only one of the five defendants was charged with physically committing rape, but all were charged with responsibility for rape in connection with the charge of persecution as a crime against humanity, brought for the varied and concerted efforts to humiliate, degrade, subjugate and otherwise mistreat detainees in the camp.

The *Kvočka* Trial Chamber, relying on jurisprudence developed at Nuremberg and the ICTY itself, found that when two or more persons enter into an agreement to commit a crime and the accused participates in the execution of the common criminal plan, liability for participating in a joint criminal enterprise may ensue. The Chamber found that Omarska camp operated as a joint criminal enterprise to persecute non-Serbs. It held that all who knowingly participated in the criminal endeavor could be held responsible not only for all crimes which were agreed upon, but also for any which were natural or foreseeable consequences of the criminal enterprise, including rape. It thus held each accused responsible for rape as part of the persecution as a crime against humanity count, since several women in the camp were persecuted by means of rape and threats of rape.

Krajišnik Judgment

In September 2006, an ICTY Trial Chamber delivered the *Krajišnik* Judgment, essentially making leaders responsible for repeated and known crimes, including rape, to which they fail to object.[13] Momčilo Krajišnik, a member of the Presidency of the Bosnian-Serb Republic and a colleague of Slobodan Milošević, Radovan Karadžić and Ratko Mladić, is the most senior person yet convicted by the ICTY. He was charged with eight counts of genocide and crimes against humanity. Sexual violence was included in a charge of persecution as a crime against humanity, and the case was prosecuted under the joint criminal enterprise theory of liability.

The Chamber found that originally the common criminal plan was to deport and forcibly transfer non-Serbs out of the territory. However, additional crimes, including rape, became frequent, and once the Serb leadership, including Krajišnik, had information available about these other crimes and not only made no attempt to prevent or halt them, but continued their same discriminatory policies and practices, these additional crimes were deemed to have become just as much a part of the joint criminal enterprise as the originally intended crimes. The *Krajišnik* Judgment thus has major implications for holding senior leaders, whether military or civilian, responsible for sex crimes when committed during the course of a scheme of persecution or other criminal endeavor: if sex crimes are notorious or widespread, and leaders make no effort to prevent or halt the crimes, an inference can be made that the leaders sanction the crimes, essentially aiding and abetting, tacitly encouraging, or otherwise facilitating them, and the leader far from the battlefield can be held individually liable for the crimes. This constitutes individual, not superior/command, responsibility, as leaders are held criminally liable for their own role in facilitating sex crimes by their tacit approval through silence or acquiescence when there is common knowledge of the crimes.

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AFRC Judgment

In 2007, the Special Court for Sierra Leone (SCSL) rendered the *AFRC* Judgment, finding the accused guilty of rape and sexual slavery as crimes against humanity. The case was upheld and amended in part by the SCSL Appeals Chamber in February 2008.[14] In this case, three leaders of the Armed Forces Revolutionary Council (AFRC) were charged with 14 counts, including the crimes against humanity of rape, sexual slavery, and other inhumane acts ('forced marriage'). This was the first verdict of the Special Court for Sierra Leone and it represented the first time the charge of "sexual slavery" was formally prosecuted by an internationalized tribunal. The prosecution disappointingly charged 'forced marriage' as an inhumane act instead of as 'other forms of sexual violence,' which would have recognized it as a distinct crime and indicated the sexual nature of the crime. Nevertheless, this charge was used for when a woman or girl was forced to provide sexual services solely to one man as well as look after his household, doing cooking and cleaning and other chores. 'Forced marriage' is essentially a more exclusive form of sexual slavery where the victims are treated as 'wives,' but unlike sexual slavery victims, the victims of 'forced marriage' are typically rejected by their community as collaborators with the enemy. Therefore, the victims are essentially denied victim status by their community, and further victimized by their banishment.

While all of these cases represented a major advance, progress is neither foregone nor absolute. It took the extraordinary confluence of circumstances, including the presence of women judges and major pressure by non-governmental organizations, to achieve these results. It should also be emphasized that while enormous progress has been made in investigating, charging, prosecuting, and rendering judgment on various forms of sexual violence, the cases tried represent a miniscule percentage of the sex crimes actually committed and for the tens of thousands of other cases there will likely be wholesale and absolute impunity. Holding leaders responsible, then, for the policies and practices of sexual violence in conflict greatly increases the number of victims who are vindicated far beyond that addressed by prosecuting individual perpetrators.

Expanded Articulation of Sex Crimes

The *Akayesu, Čelebići,* and *Furundžija* cases were ongoing during deliberations in Rome in 1998 to draft the Statute for the International Criminal Court (ICC) and the cases left an indelible footprint on the gender provisions of the Statute.[15] The U.S. delegation in Rome played a monumental role in ensuring that gender crimes were prominently featured and adequately covered in the Statute, including by explicitly enumerating rape, sexual slavery, enforced prostitution, forced pregnancy, and enforced sterilization as both crimes against humanity and war crimes. The U.S. team played a leading role in the legally and symbolically significant effort to de-link sex crimes from the misguided language of 'outrages upon personal dignity' or violations of honor, thus acknowledging rape as a crime of violence, not a crime against dignity or honor. They also played an important role in adding into the Statute language stressing the importance of gender equity on the court and expertise in gender crimes. The sex crimes in the Rome Statute,

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like the other crimes, have been deemed amongst the most serious crimes of international concern, threatening peace and security when committed in large numbers and with impunity. Of the nine individuals currently indicted by the ICC for crimes committed in Uganda, the Democratic Republic of Congo, and Darfur, eight are charged with crimes against humanity, including rape and sexual slavery. Only the first trial, that of D.R. Congo's Thomas Lubanga, focuses exclusively on the war crime of conscripting child soldiers.

The United States has been a driving force in the field of international justice and in establishing courts to try individuals most responsible for atrocity crimes. The Clinton and Bush Administrations have played key roles in establishing, supporting, and funding international and hybrid war crimes tribunals. Providing justice to victims, including victims of sexual violence, through both international and domestic trials has been strongly supported by Republicans and Democrats alike. The specific acts that make up war crimes, crimes against humanity, and genocide, including the sexual atrocities, are crimes in every jurisdiction, and have been since at least the Second World War. Under international law these crimes are not subject to statutes of limitation.

The Need for Gender Justice and Reversing Harmful Stereotypes

Criminal prosecution of sex crimes is absolutely critical in order to punish the crime and highlight its gravity. Rape and other forms of sexual violence are frequent crimes in virtually every domestic jurisdiction. If they are common in so-called peacetime, the frequency and savagery multiplies when there is a war and atmosphere of violence, chaos, and oppression. In virtually all wars, there is opportunistic rape, rape committed because the atmosphere of violence, the prevalence of weapons, and the breakdown of law and order present the opportunity. But over the last couple of decades, we have witnessed a trend toward using women's bodies as the battlefield in a calculated and concerted effort to harm the whole community through physical, mental, and sexual violence inflicted on the women and girls, the bearers of future generations. In most war-torn countries, the legal system is in shambles and there is little or no means to secure accountability for the crimes.

Another common theme that runs throughout survivors from Asia, Africa, Latin America, and Europe, one that shines a bright spot on human beings and gives hope for the future, is one of the extraordinary strength, resilience, creativity, perseverance, and goodness of survivors. Most survivors, though extremely traumatized and angry, have not sought revenge or retribution, although they do want justice and reparation. They have survived despite not only the sexual violence committed against them, but also often the loss of family members, their homes, land, possessions and jobs, sometimes even the loss of their country if they have been forced to flee or forcibly evacuated. Their extraordinary courage and tenacity in the face of such cruelty and hardship is truly amazing. They have lost so much yet they remain ever ready to share their meager possessions, provide hospitality to strangers, and to struggle for a better future for their children and others in their community. They need the full protection of the law and for it to be rigorously

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enforced. The survivors want, need, and deserve justice. They also need support for trauma counseling, rehabilitation, medical services, and economic survival.

In the past decade, there has been a growing movement to make crimes against humanity the central charge in most of the war crime tribunals, as this crime does not carry the onerous intent proof requirement that genocide requires, but it captures the widespread or systematic nature of the crimes which war crimes fail to portray. The Yugoslavia Tribunal, Rwanda Tribunal, and the Special Court for Sierra Leone in particular have shown that using crimes against humanity to prosecute rape and other forms of sexual violence can be powerful and successful–it is not necessary to prove, for example, that rape itself was widespread or systematic in order for there to be a conviction, although rape is itself often both widespread and systematic. But to render a conviction (in addition to linking the crimes to the accused), the prosecution must simply prove that the *attack* was widespread or systematic, and that rape formed part of the attack. And as more leaders are being charged with both individual and superior responsibility for their role in ignoring, facilitating, or ordering crimes, including sex crimes, crimes against humanity allows for a larger victim pool to be covered by a conviction.

The Tribunals have unequivocally established that rape is not a mere "spoil of war" or incidental byproduct of war, but is instead one of the most serious and violent crimes committed during armed conflict. For greater justice, peace, and security, it is especially crucial to go after the leaders, the policy makers, the authorities who order, encourage, allow, or ignore the use of rape as a weapon of war, terror, and destruction. The United States must ensure that it has the capacity to prosecute crimes against humanity whenever and wherever it occurs, particularly when perpetrators have found safe haven in the United States.

In addition to prosecuting rape crimes, the United States and other countries must also pour resources and effort into redressing gender stereotypes that serve to perpetuate sex crimes. The shame and stigma attached to sex crimes must be *reversed* before it has significant deterrent effect and before it is reported in closer proportion to the crimes actually committed. I use the term "reversed" instead of "deconstructed" or "rejected" quite intentionally. One of the reasons rape has been such a potent weapon of terror and destruction is because the shame and stigma wrongfully attached to the victims makes the crime more attractive to perpetrators seeking to inflict maximum harm on all members of the enemy group.

Women and girls are often rejected by their families and communities if they suffer a sexual assault, but not if they are shot in the arm or knifed in the back, as there is no stigma typically attached to non-sexual crimes. Women and girls are considered the vessels of family honor by their sexual purity or faithfulness, but such attributes rarely attach to the male, who can in some religions even have several wives lawfully. As the bearers of children, women's sexual lives are rigorously monitored in most societies, and males are blamed for failing to maintain or protect the sexual purity or exclusivity of their daughters, wives, sisters, or mothers. Many crimes evoke paralyzing terror, and rape is

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one of the most common, attacking one of the most private and intimate parts of a person's body. But the shame and stigma attached to sex crimes causes harm-*plus*.

With sexual violence, terror as well as physical and psychological harm are frequently only the beginning of a terrible sequence of consequences visited upon the victim. These are all the more destructive because, as the perpetrator well knows, many emanate from the victim's own support network of family and friends. Sex crime victims face possible rejection from their family or community; plus a strong possibility that she will never marry because she's considered "spoiled goods" or she rejects all contact with men after her assault; plus a possibility that HIV/AIDS or other diseases will be caught and can be passed on; plus a possibility that the damage caused from the rape(s) will destroy her reproductive capacity; plus a probability that violence inflicted upon pregnant women will result in miscarriage; plus a likelihood that the woman or girl will get pregnant from the rapes and they will be forced to either abort or bear the child of the rapist; plus a possible jail term or public whipping for the victim in societies where sex outside of a marital context is a crime if the victim cannot prove rape by producing four male witnesses; plus a re-victimization by the justice system in most countries where the presumption is often that the victim "asked for" or otherwise is responsible for the attack. These additional forms of pain and suffering caused by sex crimes distinguish them from other crimes that also evoke sheer, unbridled terror. Therefore, a key method of providing protections against sex crimes is reversing the shame and stigma, and placing it squarely on the shoulders of the perpetrators and others responsible for the crime: the weak cowards who prey on vulnerable portions of the population–people typically without guns or other weapons and those forced to look after children, the sick, and the elderly or to venture far from the beaten path to scrounge for firewood or food during armed conflict situations.

The majority of rapes committed during wartime are committed publicly, and in gangs, with no fear of legal–much less societal or moral–repercussion. If instead of the victims, it is the perpetrators who are outcast, ostracized and rejected by their communities, including by their armed forces/militia groups and their own families, and treated as pathetic and cowardly, I am confident that the numbers of these crimes and their strategic use as a tool of destruction would be reduced. The United States can provide effective and desperately needed leadership in this area.

The United States should close the gaps in its criminal codes which might allow perpetrators to escape justice or to find safe haven in this country. Given the long record of U.S. leadership in this area, it is unfortunate that there are loopholes in U.S. law that may have the unintended effect of making the United States a safe haven for criminals who have committed these heinous offenses. The United States should be able to prosecute any person found in this country who is responsible as an individual or superior for genocide, crimes against humanity, or war crimes, including the crimes of rape, sexual slavery, forced pregnancy, enforced sterilization, and other crimes of sexual violence of comparable gravity. For example, the War Crimes Act of 1996, as amended, is enforceable only where the perpetrator or victim of a war crime is a U.S. citizen or a member of the U.S. Armed Forces. The U.S. cannot prosecute rape under that law if a

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non-citizen commits the rape outside the United States against a foreigner and then arrives in the U.S. The United States also cannot prosecute rape under that law if a non-U.S. citizen commits a rape in the U.S. with a nexus to an armed conflict, but the victims are also non-U.S. citizens.

Persons the U.S. chooses not to prosecute should be returned to their home country or the country where the crime occurred for prosecution only if such state is able and willing to prosecute and has fair trial standards or they should be extradited to a third country willing to do so.

Recommendations

I have several recommendations to this Subcommittee to improve U.S. laws and practices and bring domestic sex crime laws up to the same standard as contemporary international laws and practices and those of many of our close Allies:

Enact a Sexual Violence in Wartime Accountability Act that criminalizes wartime sexual violence, provides for prosecution of anyone who commits sexual violence with a nexus to an armed conflict, whether in the United States or abroad, and provides for penalties commensurate with the gravity of these offenses. The law should also designate non-U.S. nationals who commit wartime sexual violence as inadmissible aliens, allow the deportation of non-U.S. nationals who commit wartime sexual violence, and deny impunity and safe haven to persons responsible for wartime sex crimes.

Enact legislation making crimes against humanity, including various forms of sexual violence, particularly rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and other forms of sexual violence of comparable gravity, crimes under U.S. law.

Provide a legislative remedy to thousands of victims who might otherwise be left without a remedy if statutes of limitations and retroactive application of atrocity related crimes, including rape and other forms of sexual violence, do not go back at least 20-30 years. It would be important, for example, that persons responsible for rape during the 1994 genocide in Rwanda or sexual violence as crimes against humanity in Iraq in the 1980s do not receive impunity when the acts they committed were clearly crimes at the time of commission, even if not explicitly enumerated in our federal criminal code.

As an alternative to the Sexual Violence in Wartime Accountability Act, consider amending the Federal Criminal Code, Title 18, War Crimes (§2441) (also known as the War Crimes Act) to enable the prosecution of wartime sex crimes by non-U.S. nationals committed against non-U.S. nationals.

Amend the Federal Criminal Code, Title 18, Torture (§2340) (also known as the Torture Statute of 1994), or add an authoritative commentary to the statute, to recognize explicitly what is implicit but should be made absolutely clear: sexual violence, and threats thereof, may constitute a form and means of torture. The Torture Statute is

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currently being used, for the first time, to prosecute Emmanuel "Chuckie" Taylor (son and henchman of infamous warlord Charles Taylor, now on trial in The Hague) in Miami. It is likely that this prosecution will result in future use of the Torture Statute to prosecute other crimes, including sexual violence. The Subcommittee should also consider using its oversight authority to inquire why this statute has not been used to redress gender crimes and what steps, if any, could be taken to facilitate greater use of the statute in appropriate cases, including prosecuting wartime sexual violence and other gender crimes.

Amend the Federal Criminal Code, Title 18, generally to enable our domestic courts to prosecute genocide, war crimes and crimes against humanity, including rape and other forms of sexual violence, in conformity with international criminal law.

Finally, the Subcommittee should provide support for putting additional resources into combating gender stereotypes which perpetuate sexual violence, as well as supporting trauma counseling, rehabilitation, reparation, and medical assistance for victims of wartime sexual violence.

The bottom line: The U.S. should be at the forefront in promulgating legislation on wartime sexual violence. It is crucial to modernize our criminal codes to provide more protections to the victims of wartime sexual violence and ensure that perpetrators neither escape justice nor find safe haven in the United States. The U.S. should have the ability to prosecute a range of sex crimes when committed with a nexus to an armed conflict, as a crime against humanity, and as genocide.

I would be pleased to endeavor to answer any questions the Subcommittee may have.

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[1] Instructions of the Government of the United States in the Field by Order of the Secretary of War, Washington D.C. (April 24, 1863), Rules of Land Warfare, War Dept, Doc. No. 467.
[2] Agreement for the Prosecution and Punishment of Major War Criminals of the European Axis, Aug. 8, 1945, 59 Stat. 1546, 82 U.N.T.S. 79; Charter for the International Military Tribunal of the Far East, Jan. 19, 1946, T.I.A.S. No. 1589, 4 Bevans 20 (1968).
[3] See extensive references to gender crimes in the Nuremberg and Tokyo trial transcripts in Kelly D. Askin, War Crimes Against Women: Prosecution in International War Crimes Tribunals (1997). There is a common perception that sex crimes were not prosecuted in the post World War II trials. This is in large part due to the facts that a) the focus of the trials was principally on crimes against peace and mass slaughter of innocent civilians, b) sex crimes were not mentioned in the tribunal's Charters, and were given inadequate or no explicit attention in the indictments and judgments, and c) the table of contents and the indexes of the trial transcripts and judgments largely failed to include mention of rape or any other form of sexual violence, despite the vast documentation and testimony of various forms of sex crimes entering into evidence throughout the trials. They are included under 'atrocities' in the judgments.
[4] Geoffrey Robertson, Crimes Against Humanity (2000), p. 306.
[5] S.C. Res. 827, U.N. Doc. S/827/1993 (1993).
[6] S.C. Res. 955, U.N. Doc. S/INF/50 (annex) (1994).
[7] Prosecutor v Akayesu, ICTR-96-4-T, Sept. 2, 1998 (Akayesu Trial Judgment).
[8] Akayesu Trial Judgment, para. 732.
[9] Prosecutor v. Delalić, Judgement, IT-96-21-T, Nov. 16, 1998.
[10] Prosecutor v. Furundžija, Judgement, IT-95-17/1-T, Dec. 10, 1998.
[11] Porsecutor v. Kunarac, Judgement, IT-96-23-T & IT-96-23/1-T, Feb. 22, 2001.
[12] Prosecutor v. Kvočka, Judgement, IT-98-30-T, Nov. 2, 2001.

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[13] Prosecutor v. Krajišnik, Judgement, IT-00-39-T, Sept. 27, 2006.
[14] Prosecutor v. Brima, Kamara, Kanu, Judgment, SCSL-2004-16-T, June 20, 2007 (AFRC Trial Judgment); Prosecutor v. Brima, Kamara, Kanu, Judgment, SCSL-2004-16-A, Feb. 22, 2008 (AFRC Appeal Judgment).
[15] Rome Statute of the International Criminal Court, 1998 Sess., U.N. Doc. A/CONF. 183/9 (1998) (entered into force July 1, 2002).

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SUBMISSION TO THE SENATE JUDICIARY SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW
March 27, 2008

Sexual and Gender-based Violence in the DRC

CARE thanks the Subcommittee for the opportunity to provide this testimony, and for holding a hearing on the very important topic of sexual and gender-based violence in the Democratic Republic of Congo (DRC).

CARE is an international humanitarian and development non-governmental organization that has been working in the DRC since 2002. In the DRC, CARE engages in programming involving basic health services, family planning and reproductive health, treatment and prevention of malaria, livelihood protection and promotion, management of natural resources, and, more generally, community development for war-affected communities. A cross-cutting focus on women's rights and empowerment is a central part of our approach to all of our programs.

CARE DRC's approach is to work in partnership with others, reinforcing civil society to engage in advocacy and actions in favor of vulnerable and marginalized groups, such as survivors of sexual and gender based violence, and enabling the latter to claim their rights. All of the projects in the CARE DRC portfolio use a similar approach to raise awareness and reinforce the responsibilities of all actors to advance toward a democratic state that protects and serves all citizens equally and supports sustainable peace and development.

The people of the DRC currently face a multiplicity of challenges in their search for sustainable peace and post-conflict development. In addition to the active conflict and displacement in North Kivu and parts of South Kivu, many other areas of the country face widespread poverty, poor governance, a near total lack of basic infrastructure, incomplete demilitarization and general insecurity—all of which undermine the nation's prospects for reconstruction and stability. More specifically, these factors are at the root of the high rates of sexual and gender-based violence in the country, the issue that we have been asked to address in this submission.

Our submission highlights the trends and root causes of the problem of sexual and gender based violence (SGBV) in the DRC and outlines recommendations for US government action to reduce this scourge.

What are the issues driving the high levels of SGBV in the DRC?

The use of rape as a weapon of war in the DRC is well-documented. The ongoing conflict in the Kivus has been characterized by brutal forms of rape and sexual violence, which have traumatized victims and entire communities. Many of the perpetrators of this violence are armed men associated with various rebel factions and the national army.

However, a shift has also been observed in the nature of SGBV in the DRC, with sexual crimes increasingly being perpetrated by civilians in areas of the country that are enjoying relative stability. A report of the UN's joint initiative on sexual violence indicates that 60% of the perpetrators of sexual violence in the DRC are now civilians and that many areas are experiencing high rates of rape

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and sexual violence, years after the end of active fighting.[1] SGBV seems to have embedded itself as a broader social problem, one that will not necessarily disappear with the cessation of hostilities.

Many would ask why such forms of violence—which have become associated with periods of active conflict—would continue in relatively stable areas of the DRC. Through our programmatic work and research in Maniema province—which is currently at peace, we have identified a number of key drivers of this problem.

1. A weakened social fabric

A complete breakdown of the "community fabric" occurred during years of unrelenting conflict in many areas of the DRC. People witnessed heinous acts of violence, some of which were perpetrated by members of their own community. Especially in the East, the war has destroyed social structures, undermined traditional authority mechanisms and opened the way for rule by force. Large numbers of young men—many of whom committed horrible acts of violence during the war and were separated from family and community structures—pose a particular threat to women.

2. Incomplete Demobilization and Reintegration processes

Roughly half of the combatants that were part of various militias in the Maniema province were actively demobilized after the war. Of those that were disarmed, many did not receive a full package of assistance to complete their reintegration into civilian society, leaving many without proper psychological counseling or livelihood options.

There is some evidence that this incomplete DDRR process has helped create an environment where former combatants are more likely to perpetrate violence against women as civilians in their own communities. The years of experience in meeting their needs by force—combined with the challenges of integrating back into civilian life—have left the door open to this type of violence. Furthermore, roughly 5,000 Mayi Mayi (or local militia) soldiers that were not disarmed during the DDRR process continue to pose a threat in some areas of Maniema[2].

3. Weak Justice mechanisms

There is a near total absence of formal justice mechanisms through which SGBV cases can be prosecuted, which unsurprisingly creates an environment ripe for impunity. Extensive corruption, coupled with weak judicial capacity and a lack of legal services in many areas, make meaningful enforcement of the DRC's new law against SGBV almost impossible. The lack of faith among the general population in the ability of ever being able to have a case processed in a fair, timely and enforceable manner only reinforces the environment of impunity as people do not bother to pursue legal action against their perpetrators.

There is a great need for judicial accompaniment programs for victims to help them navigate the complexities of the court system in the DRC. Assistance is also needed to strengthen the capacity of the court system and root out corruption. Furthermore, efforts must be made to

[1] *Rapport semestriel 2007 des cas incidents de violences sexuelles*, UN Joint Initiative against sexual violence in the DRC, July 2007

[2] Based on a conversation between CARE employees and representatives of the United Nations Development Programme in Kindu, Maniema, Democratic Republic of Congo. January 2008.

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bolster the mobile court system, as lack of physical access to courts and legal services will remain one of the major barriers to ending impunity. Informal justice mechanisms are prevalent and play an important role in reconciliation, but they may not be an appropriate avenue to address the gaps in the formal justice systems.

4. Poverty and lack of sustainable livelihoods

The end of conflict has produced little in terms of economic opportunity for communities in many parts of the country. In an environment where many are struggling to cope on a daily basis, poverty and hopelessness has bred frustration, which in turn increases the potential for ongoing violence against women. In regions such as Maniema, one of the critical barriers to development and improving people's lives is a lack of infrastructure and transportation. This isolation cripples trade and agricultural production, dramatically increases the cost of basic food and goods and makes it nearly impossible for people to live beyond a subsistence level. Alleviating the dire economic situation in many parts of the country is a necessary long term step for addressing women's vulnerability to violence.

5. Inadequate Coordination and financing of GBV services

In many areas the provision of SGBV services is plagued by coordination and capacity problems. Scaling up of SGBV programs is needed to reach survivors in rural and inaccessible areas and to make more people aware of the availability of existing services. In addition, women receiving services are not being properly monitored through the stages of assistance (medical—psychosocial—judicial—economic reinsertion) and many "fall through the cracks". Enhanced coordination is needed to ensure better sharing of information and referral of survivors as a full assistance package is critical in assisting victims overcome the physical, mental, social, and economic shocks that are associated with SGBV.

6. Women's unequal status

Societal gender norms have perpetuated violence against women by allowing the stigmatization of survivors and increasing impunity for perpetrators. Violence against women is in many ways an outgrowth of underlying concepts regarding women's value and rights as people. An indicator of these trends is the increasing number of "rape marriages" or forced marriages occurring in communities where a man rapes a girl he wishes to marry—often forcing the family of the girl to negotiate with the perpetrator in order to save face. In addition, the violence is increasingly perpetrated against girls of a younger and younger age.

Women's empowerment and inclusion in decision-making is critical to preventing and addressing SGBV. It is of paramount importance that women be elevated to equal members of society and that they are able to use their own voice to end the stigma associated with SGBV and the conditions that have allowed it to occur. The current rolling out of a decentralization process provides an opportunity to make government more responsive and accountable to women.

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Recommendations for US Government Action to address SGBV

The US government, working with the government of the DRC, the UN and other stakeholders, can play a critical role in strengthening efforts to address the causes and consequences of sexual and gender based violence in the DRC. To do so, the US government should take the following steps:

1. Continue work towards a sustainable political solution to the conflict in the East of the country, where SGBV continues at an alarming rate. Not only does the conflict perpetuate immense suffering among affected populations, but it diverts the attention of the government of the DRC from addressing the many post-conflict challenges that are being faced in other areas of the country.

   This includes supporting the work of the Senior Advisor to the Assistant Secretary on Conflict Resolution—Tim Shortley—in implementing the recently signed Goma Peace Agreement. The US has played a leadership role in getting the parties to the negotiating table and these efforts must be closely monitored and supported in order to increase the likelihood of sustainable peace.

2. Make efforts to take a broader approach in addressing SGBV in the DRC by orienting foreign assistance programs to target the underlying issues that perpetuate SGBV in both conflict and post-conflict environments. These include:
   - Extending infrastructure and services that increase economic opportunities
   - Ensuring sufficient support for the proper demobilization and reintegration of ex-combatants
   - Strengthening the capacity, at all levels, of essential government institutions—particularly the police and the courts—whose weakness helps create an environment of impunity
   - Investing in interventions that reduce women's vulnerability, including: access to education, strengthened property rights, increased economic opportunities, and political inclusion.

3. Increase support for community-based awareness raising and dialogue on the social norms that contribute to SGBV. Programming of the type meant not merely to campaign against violence against women, but to engage with fundamental cultural conceptions of gender and discrimination, is urgently needed. This includes activities directed at building advocates of change in communities, among both men and women, to end tolerance of this type of violence and ensure that women's rights are recognized and put into practice.

4. Step up efforts to provide support to victims of SGBV in conflict and post-conflict areas of the DRC. These include:
   - Providing medical services to assist with physical trauma
   - Ensuring psychosocial support to victims
   - Assisting women to support themselves through "economic reinsertion" programs
   - Supporting women to seek justice through the formal legal system

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Special efforts should be made along with other donors to ensure the provision of this full package of services in hard–to-reach and "forgotten" areas of the country where they are desperately needed.

5. Explore options to strengthen the justice system in the DRC, which is key to ending impunity. This can be done by:
   - Providing increased assistance for capacity building in the judicial system, and for work aimed at familiarizing populations with new laws on sexual violence
   - Working with the government of the DRC to stamp out corruption in its legal system
   - Collaborating with other donor governments to provide additional funding for legal accompaniment of victims of SGBV and extending a mobile court system to harder to reach areas

6. Support the government of the DRC with technical and financial assistance as it rolls out its "decentralization program". This is a critical step in devolving governance and basic service provision to a level more accessible to the people of the DRC; however, it will be fraught with challenges. Institutional strengthening and the establishment of checks on corruption will be critical elements in ensuring that the process is successful and ultimately improves the lives of the Congolese people.

7. Pass the International Violence against Women Act (S.2279). CARE supports this legislation, which would establish mechanisms to increases US leadership in combating violence against women around the world.

In conclusion, it is clear that the DRC is at the very beginning of a long journey towards reconstruction and development. Within this context, strong action to prevent and respond to sexual and gender based violence is more than a moral and humanitarian imperative. It is a fundamental step in rebuilding the country's social capital and moving towards a just, prosperous, and equitable future for all Congolese.

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Statement of the **Christian Peacemaker Teams**, April 1, 2008
taken from the CPT Delegation to the Democratic Republic of the Congo Report written by Wendy Lehman
(for the complete report, visit **www.cpt.org**)

A Christian Peacemaker Teams (**CPT**) delegation of 11 women traveled to the eastern Democratic Republic of the Congo (DRC) October 18 to November 4, 2006 to meet with women who had experienced rape and sexual assault, as well as women's organizations, human rights groups, and churches working with them. The diverse delegation included women from the U.S., the DRC, Colombia, and Kenya.

Despite efforts to end years of war and conflict, violence has continued since 2003. Civilians-- especially women and children-- bear much of the violence at the hands of militias and elements of DRC's national army. Rape is used as a weapon of war against women and girls. The number of women and girls raped is estimated from 50,000 conservatively into the hundreds of thousands. The CPT delegation learned that infants as young as two months old and women in their 70s are raped.

Many women as well as human rights groups stated that militias including the Interahamwe, Mai Mai, the Rwanda-supported rebel group RCD (Congolese Rally for Democracy in Congo), the Rastas, Congolese national army soldiers, and others committed vicious gang rapes, torture, and murder of civilians, including cannibalism. The trauma on the whole family and community has been magnified by the public nature of many of these rapes and other forms of torture-- committed in front of husbands, children, and other community members. Although women are the primary victims of these brutal attacks, the larger comunity is also torn apart, as survivors are often stigmatized and unwelcome back into their communities. Furthermore, women who collect water and care for the fields are afraid to do so, as often this is where these attacks occur. The community suffers significant economic loss as a result. Children who result from these rapes often become "street children", creating an additional humanitarian crisis.

Two examples of Congolese Activist Organizations:

1. Heritiers de la Justice (Inheritors of Justice). The Inheritors of Justice (**IOJ**) is a church-based human rights and conflict resolution group. The IOJ disseminates information about what is happening in eastern DRC. They have a brochure, a website (www.heritiers.org) in French and English, and they utilize the radio. The director of Administration and Finance, Maurice Namwira, explained that they (the IOJ) don't consider themselves the "voice for the voiceless" but rather work to "empower people to speak for themselves," adding that "there is a big difference between the two." Many in the organization are lawyers, working in the court system.

The IOJ runs programs for adults and youth. There are adult programs on sexual violence and how to advocate for your rights. They also reach out to the Rwandan and Burundian communities, offering workshops on peace and reconciliation (as of Fall 2006 they had held one in Rwanda and two in DRC). They also defend those in court unable to defend themselves, many of whom have been sexually violated. In partnership with other groups the IOJ mobilized a significant effort to get the legal code changed vis-a-vis rape and sexual assault. The old law was outdated-- a perpetrator could be charged with rape, and all other sexual assault went under the category of "immorality." Immorality charges only led to sentences of a maximum of 10 years-- this would include sexual slavery, rape of infants, etc. They were successful in changing the code to include varying levels of sexual assault. Initially this was discussed in Bukavu but was eventually successful at the national level.

One lawyer at the IOJ, Ana, sopke about the court system. She said there are two avenues for women to bring charges-- in civilian court, if the perpetrator is civilian, or in military court, if the perpetrator is military. Military court is complicated by rapes committed by militias not part of the military, and by many cases in which the victims don't know their perpetrators. In cases of sexual slavery, women can often identify their perpetrators, but may not know their real names (rapists often use fake names). Survivors are also scared of testifying. Members of the IOJ have themselves faced intimidation and threats and have been followed because of their work. One creative approach to cases has been to try perpetrators where the alleged attack occurred. For example, one member of the military raped five girls aged one and a half to 13 years old, saying he believed if he did this he would be promoted, said Ana. The fact that he was judged in the place where the attack occurred had a significant impact on other soldiers.

2. Collectif des Associations des Femmes Cadres pour l'Epanouissement Integral de la Femme (C/AFECEF) Collective Association of Women's Groups for the Empowerment of Women. The C/AFECEF is

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an association of women intellectuals that partners with rural women facing rape and other brutalization. They began in 1992 when it became apparent how few women were in government (one minister out of 20). Their goals are to: help women "blossom"; spark women's interest in economics and business; defend women's rights and interests.

C/AFECEF spoke of gang rapes, massacres, and horrific human rights violations. One member reported that the Interahamwe cut open a women's stomach and pulled out her twin fetuses before killing her. Another reported a case where a woman was forced to eat her husbands genitals. In another there were rumors that women were making reports on their attackers. The Interahamwe blamed a village of collaboration and took a group of women from the village and buried them alive. One member, the Vice President of the YWCA, said that after dark in the countryside people scatter, hiding where they can. She had even spent the night hiding in a tree. She said that the women in the rural areas "were feeling abandoned and that is why our presence is important." In addition, she said, "peace is a right."

Women if C/AFECEF said that men became fearful because of the violence against them and against their wives and children and did not want to speak out, so the women did. Women carried human rights documentation-- people's stories written down-- on bicycles through war-torn and rebel-controlled areas to get the word out. C/AFECEF celebrates International Women's Day every year. In 2000, they celebrated the International Day *Without* Women-- they all stayed home to protest the systematic raping of women. From their homes, they wrote reports documenting the continued repression of women and sent these stories to news stations. Even though many women the CPT delegation met spoke of rebel groups and the conflict coming from Rwanda, C/AFECEF emphasized that they collaborate with women in Rwanda and Burundi. One member said, "We know men make war so we must work together as women."

Final Notes: When repeating the details of these very brutal stories of rape, there is danger of proliferating the racist stereotype of "savage Africa," or the notion that Congo is nothing more than conflict, war, and bloodshed. Congo is a very rich country in the diversity and strength of its people, languages, culture, history, and landsacpe, and certainly cannot be distilled to nothing more than violence and warfare. But hearing people's stories can provide a window to a larger, more complex war over resources in which people are caught in the middle and in fact being used as pawns. The women the CPT delegates met wanted these stories told to help lead to a change in international policy toward the DRC, to stop the flow of arms into their country, and to allow them to control their natural resources, holding multinational corporations responsible for their culpability in the conflict.

Members of CPT's October 18 to November 4, 2006 delegation were: Fatuma Alinoti (Ypsilanti, Michigan), Nancy Almquist (Mt. Rainier, Maryland), Judy Amunga (Nairobi, Kenya), Sharon Gossom (Wheaton, Illinois), Tracy Hughes (Tiffin, Ohio), Unjin Lee (Seattle, Washington), Wendy Lehman and Sara Reschly (Chicago, Illinois), Mawazo Kaluhya Esperance (Uvira, DRC), Sandra Rincon (Bogota, Columbia) and Aningina Bibiane Tshefu (New York, New York).

Christian Peacemaker Teams (CPT) offers an organized, nonviolent alternative to war and other forms of lethal inter-group conflict. CPT provides organizational support to persons committed to faith-based nonviolent alternatives in situations where lethal conflict is an immediate reality or is supported by public policy. CPT seeks to enlist the response of the whole church in conscientious objection to war, and in the development of nonviolent institutions, skills and training for intervention in conflict situations. CPT projects connect intimately with the spiritual lives of constituent congregations. Gifts of prayer, money and time from these churches undergird CPT's peacemaking ministries.

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Opening Statement of Senator Dick Durbin
Chairman, Subcommittee on Human Rights and the Law
Hearing on "Rape as a Weapon of War:
Accountability for Sexual Violence in Conflict"
April 1, 2008

This hearing of the Judiciary Committee's Subcommittee on Human Rights and the Law will come to order.

The subject of this hearing is "Rape as a Weapon of War: Accountability for Sexual Violence in Conflict." This is the first-ever Congressional hearing on sexual violence in conflict. That is a sad testament to our failure to take action to stop this horrific human rights abuse.

After a few opening remarks, I will recognize Senator Coburn, the Ranking Member, for an opening statement, and then we will turn to our witnesses.

The use of rape as a weapon of war

Today we will discuss the systematic and deliberate use of rape as a weapon of war to humiliate, expel and destroy communities in conflicts around the globe.

Tragically, mass rape has been a feature common to recent conflicts in Bosnia, Darfur, the Democratic Republic of Congo, East Timor, Rwanda and Sierra Leone. However, this problem is neither new nor unique to these conflicts.

In World War II, the Japanese Imperial Army raped an estimated 20,000 women, ranging from infants to elderly women, in the city of Nanking in China in a one-month period.

Rapes in Nanking, and in too many conflicts since then, have frequently been carried out in public and in front of family members. Men are often forced to rape their mothers, sisters or daughters. Women are mutilated and sometimes killed after the rape.

Children are particularly at risk of being subjected to wartime sexual violence and, in some countries, girls and boys are abducted and repeatedly raped.

Women and girls who survive sexual violence are frequently stigmatized and rejected by their families and communities.

I would like to show a brief graphic video that will provide some context for our discussion. This video features clips from the documentary on rape in the Democratic Republic of Congo by Lisa F. Jackson, one of our witnesses today.

[SHOW VIDEO]

It is appalling that today women and girls are being raped in conflict situations around the

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world. This reflects our collective failure to stop the use of women's bodies as a battleground.

The scale of this problem is daunting. A recent report documented conflict-related sexual violence in 51 countries in Africa, the Americas, Asia, Europe and the Middle East in the last two decades.

But wartime rape is not inevitable. The widespread prevalence of sexual violence in recent conflicts results in part from the lack of accountability for those who use rape to pursue military or political goals.

Government and rebel forces violate human rights with impunity, perpetuating the stigma that surrounds these crimes.

Historically, wartime sexual violence was tolerated as an unfortunate but unavoidable consequence of conflict.

Throughout the twentieth century, rape and other forms of sexual violence were included in increasingly specific terms in international agreements on the conduct of war. Prejudice and misconceptions meant these crimes were initially framed as private acts violating family dignity and honor, rather than the violent public crimes they are.

As noted in the video we just watched, the Yugoslav and Rwanda Tribunals made significant progress by prosecuting perpetrators of sexual violence. That we have moved beyond the not-so-distant debate about whether sexual violence in conflict is a war crime represents an important step.

Despite these positive developments, wartime sexual violence and the experience of those women and men who survive it remain invisible far too often.

During today's hearing, we will discuss legal options for holding accountable those who use rape as a military tactic. While a growing number of perpetrators of wartime sexual violence have been prosecuted, a much larger number have escaped accountability. The average wartime rapist runs very little risk of being prosecuted.

The United States and other countries must play a greater role. I'm sorry to say that if a foreign warlord who engaged in mass rape found safe haven in our country today, he would probably be beyond the reach of our laws. It is not a crime under U.S. law for a non-U.S. national to perpetrate sexual violence in conflict against non-U.S. nationals, so the U.S. government is unable to prosecute such perpetrators of wartime rape who are found in our country.

There is also no U.S. law prohibiting crimes against humanity, one of the most serious human rights violations, which includes mass rape and other forms of sexual violence in conflict.

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And we must make it clear that genocide and torture, two of the serious human rights violations that are a crime under U.S. law, can include wartime sexual violence.

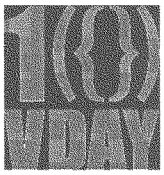
These loopholes have real consequences. For example, take the case of Emmanuel "Chuckie" Taylor, son of the warlord Charles Taylor, who the Justice Department is prosecuting under the Torture Statute. As the head of the notorious Anti-Terrorist Unit of the Liberian government, Chuckie Taylor was implicated in wartime rapes committed by the ATU, but it's unlikely that he could be prosecuted for these crimes against humanity under U.S. law.

Another example is Marko Boskic, who found safe haven in our country after reportedly participating in the execution of men and boys in the Srebrenica massacre. Under current law, the United States was unable to prosecute Boskic for his crimes against humanity, and charged him only with visa fraud.

In addition to punishing individual perpetrators, governments that tolerate and fail to take steps to stop wartime sexual violence must be held accountable for their actions. At the very least, we must ensure that U.S. tax dollars do not fund state armies that fail to prevent their forces from engaging in mass rape.

We must work to end the use of rape as a weapon of war, but as long as the practice persists, we should support programs that provide protection, medical care, psychological services and legal remedies to survivors of wartime sexual violence.

As I have said before, this Subcommittee will focus on legislation, not lamentation. We must end impunity for wartime sexual violence. I look forward to working with the members of this Subcommittee to ensure that our laws hold accountable those who use rape as a weapon of war.



Eve Ensler
Founder/Artistic Director

Carole Black
Ilene Chaiken
Rosario Dawson
Jane Fonda
Salma Hayek
Mellody Hobson
Pat Mitchell
Linda Pope
Emily Scott Pottruck
Cari Ross
Kerry Washington
V-Board

Janet L. Dobrovolny
Nancy Rose
Legal Counsel

www.vday.org

Office of the
Artistic Director
11 East 22nd Street #5
New York, NY 10010
212.924.1229/T
212.206.3916/F

Dear Chairman Durbin and Senator Coburn:

Before I went to the Congo, I had spent the past 10 years working on V-Day, the global movement to end violence against women and girls. I had traveled to the rape mines of the world— places like Bosnia, Afghanistan and Haiti, where rape has been used as a tool of war. But nothing I ever experienced felt as ghastly, terrifying and complete as the sexual torture and attempted destruction of the female species here. The violence is a threat to all; young girls and village elders alike are at risk. It is not too strong to call this a femicide, to say that the future of the Congo's women is in serious jeopardy.

This is a state of emergency. Women are raped every hour. Every hour women are murdered. The crimes against women's bodies would be horrible enough. The raping of thousands of girls under 12. The raping of women as old as 80. The raping of women in front of their husbands and children. The malevolent cruelty: soldiers with AIDS being organized by commanders to rape villages of women, the mutilations, the thousands of cases of fistula that are the result of sticks and guns and gangs of penises ripping out women's vaginas and rectums so now every stitch of control they might have had over even their urine and feces is gone. The insufferable poverty. The abandonment of the women after the rapes by their families and community. But the worst crime is the complete unwillingness of the world, the governing bodies of the world, the media of the world, the utter passivity and indifference of the world in the face of such atrocities.

The women of the Congo are resilient and powerful and visionary and compassionate. With a few resources they could be the leaders of the country and take the country out of its current state of lawlessness, poverty and chaos. Or the women of the DRC can be annihilated and with them, the future of the country. The Democratic Republic of Congo is the heart of Africa. It holds the life beat and the promise of the future. If you allow the destruction of the women, you kill the life of not only the Congo, but all of Africa.

I urge the Subcommittee on Human Rights and the Law to use their political clout to address the horrific situation in the DRC. One concrete step that can be taken is to hold perpetrators accountable and to end the impunity. If we do not take action, the global femicide which is ravaging the planet will only set its roots deeper and deeper.

Sincerely,

Eve Ensler
Founder Artistic Director

Statement by Senator Russ Feingold
At the Hearing Before the Senate Judiciary Committee
Subcommittee on Human Rights and the Law
on "Rape as a Weapon of War: Accountability for Sexual Violence in Conflict"
Dirksen Senate Office Building Room 226
Tuesday, April 1, 2008

I thank the Chairman of this Subcommittee, Senator Durbin, for holding this important hearing on a topic that is painful to discuss but even more difficult to ignore. All of us should be horrified by reports of the systematic sexual violence that millions of women and girls face. And all of us should be outraged by the impunity with which such crimes are committed. This type of abuse is so widespread in countries like the Democratic Republic of Congo in large part because the perpetrators know they will not face consequences for their actions. No government of a civilized country can allow crimes of this severity and frequency to go unpunished.

During Congress' August recess last year, I traveled to the Democratic Republic of Congo and visited the embattled eastern regions just days before the major offensive that drove tens of thousands of people from their homes. While in North Kivu, I visited a camp of internally displaced Congolese and a center for victims of sexual abuse. As today's witnesses can attest, the consequences of the ongoing conflict and the pervasiveness of sexual violence in the eastern DRC may mean that there are few worse places in the world to be female. While in North Kivu, I met with a group of displaced Congolese women who had been sexually abused and in many cases raped, causing them to suffer serious physical, social, and psychological pain with little opportunity for healing or redress.

The humanitarian assistance that the United States and other donors offer the victims of this abuse is essential, but it is insufficient. Even more powerful than our money is our diplomacy. The U.S. and the international community must press every government that fails to prevent sexual violence, as well as other war crimes, to hold accountable those who have committed such heinous crimes.

In seeking justice from the perpetrators of terrible violence during Sierra Leone's civil war, the Special Court of Sierra Leone has begun convicting the perpetrators of sexual violence and rape for war crimes. I am hopeful that these historic precedents will set an example and send a message around the world. Today's hearing calls attention to this issue and to what I hope is the beginning of a concerted international effort to make the world safer for vulnerable women.

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"Rape as a Weapon of War: Accountability for Sexual Violence in Conflict "
Written Testimony by Ritu Sharma Fox
President and Co-Founder, Women Thrive Worldwide
Before the U.S. Senate Judiciary Subcommittee on Human Rights and the Law

April 1, 2008

My name is Ritu Sharma Fox. I am the Co-Founder and President of Women Thrive Worldwide, formerly known as the Women's Edge Coalition. Women Thrive Worldwide is a coalition of almost 60 organizations that is dedicated to helping women in developing countries lift themselves and their families out of poverty. I am pleased to submit this written testimony to the Senate Judiciary Subcommittee on Human Rights and the Law. Thank you to the honorable members of the Subcommittee and Chairman Durbin and Ranking Member Coburn for their leadership in upholding the rights of men and women around the world.

It is widely recognized that women and children are among the most vulnerable groups during armed conflict. Equally important is the need to recognize the critical and multiple roles women play in rebuilding stable, productive societies post-conflict. While many would agree with this assertion, the challenge for the U.S. is to consistently implement and fund strategies that promote both women's and men's priorities in international relief and development policies. My comments will focus specifically on the stabilizing and poverty-reducing tool of women's economic development.

Although the impact of violent conflict on societies as a whole is far-reaching, women and children suffer disproportionately both during violent conflict and in the aftermath. As reported from across the world in the Democratic Republic of Congo (DR Congo), Darfur, Chad, Uganda, Kenya and Colombia, violence against women and children, particularly sexual violence, increases dramatically in conflict situations. Women and girls are targeted as symbols of family and religious and ethnic identities in war and are brutally raped, assaulted and abducted into servitude. In DR Congo, armed groups have systematically raped tens of thousands of women and girls in extremely violent ways to terrorize communities and often commit these atrocities publicly to humiliate women and break apart their families.[1] A recent field report from the International Rescue Committee found that it is not uncommon for armed groups to "seiz[e] young women from farms or water points and enslav[e] them and rap[e] them for one to three months".[2] Women who survive face debilitating health consequences, usually without access to proper medical care, and also have to live with psychological trauma and extreme stigma from their families and communities. For many women, the aftermath of surviving brutal sexual

[1] International Rescue Committee. "With Worsening Violence Comes Staggering Reports of Rape." 31 October 2007. http://www.theirc.org/news/congo-reports-of-rape103107.html
[2] Ibid.

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violence also includes living in social isolation and rejection.

Conflict also compounds women's poverty, as women are at greater risk of being poor. Many more women become sole heads of households, bearing the responsibility of survival and care for their children, elderly dependents, extended family members and in many circumstances, orphans as well. In the Democratic Republic of Congo, it is estimated that between 60 to 80 percent of women have become single heads of households due to conflict.[3] In Colombia, women and girls account for more than 55 percent of the nearly three million Colombians displaced by the violent conflict since 1985, and 49 to 58 percent of the households are headed by women.[4] At the same time, the resources that women draw from to survive and rebuild their families' lives, such as firewood and potable water, adequate shelter, health services, agricultural inputs and markets to sell handicrafts and other types of income-generating activities, are destroyed. Even after the fighting ends, women continue to face the threat of violence, especially if they are displaced, and may be forced to exchange sex for survival and protection of their children.[5]

The story of women in conflict situations is not just that of tragedy. It is also of the remarkable strength, courage and ingenuity women have shown in keeping their families together in the most adverse situations. The recovery of families, communities and nations is built on women's ability to keep going.[6] To be sure, successful peace-building efforts in Liberia and Northern Ireland would not have happened had it not been for the resolve and determination of women-led civil society groups. According to the United States Institute of Peace, Liberia's Women in Peacebuilding Network "was instrumental in moving the disarmament process forward" as the group bravely traveled all over the country to directly engage rebel forces and facilitated the meetings of rebel leaders with then President Charles Taylor, earning a reputation as "objective intermediaries" in the process.[7] In Northern Ireland, women played a key role in pushing forward the peace talks that led to the Good Friday Agreement by staying in the room and continuing the dialogue when male negotiators walked out of sessions[8].

Investing in Women is Key to Rebuilding

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[3] Nadine Puechguirbal. "Women and War in the Democratic Republic of the Congo." Signs: Journal of Women in Culture and Society, vol. 28, no. 4 (2003): 1273. As cited by: Women for Women International. "Ending Violence Against Women in Eastern Congo: Preparing Men to Advocate for Women's Rights," Winter 2007. http://www.womenforwomen.org/documents/MensLeadershipFullReport_002.pdf

[4] United States Institute of Peace, "Special Report: Civil Society under Siege in Columbia," February 2004, 3 at http://www.usip.org/pubs/specialreports/sr114.pdf. 12 April 2004. *And* Reproductive Health Response in Conflict Consortium, "Columbia 2003: Displaced and Desperate: Assessment of Reproductive Health for Colombia's Internally Displaced Persons," at http://www.rhrc.org/pdf/co_rh.pdf. 12 April 2004. As cited by: Women for Women International. "Fact Sheet on the Status of Women in Colombia." http://www.womenforwomen.org/swcolombia.htm.

[5] International Rescue Committee. "The Forgotten Frontline: The Effects of War on Women." http://www.theirc.org/help/how-the-irc-helps-women.html

[6] Ibid.

[7] Bekoe, Dorina and Christina Parajon. "Women's Role in Liberia's Reconstruction." United States Institute of Peace Briefing. May 2007. http://www.usip.org/pubs/usipeace_briefings/2007/0530_liberia_women_reconstruction.html

[8] Hunt Alternatives Fund. "The Vital Role of Women in Peace Building." http://www.huntalternatives.org/pages/460_the_vital_role_of_women_in_peace_building.cfm

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Reconstruction and stabilization processes will only be effective if they holistically address this broader swath of needs – from psycho-social to security to economic – and take into account the different needs, priorities and contributions of women and men. Often unrecognized in project planning and implementation is the key role that women play in development and rebuilding. In most parts of the developing world, it is well-documented that improvements in the socio-economic status, health and education of women has an immediate and lasting impact on the well being of entire families. In post-conflict societies, women's contributions become increasingly important "as they tend to assume new roles in the productive and leadership spheres previously occupied by men".[9]

Investing in women, and giving them a prominent voice and role in rebuilding, is therefore critical in helping communities recover from calamity. A vivid example highlighting this lesson learned comes from David Steinberg, former U.S. Ambassador to Angola: "The exclusion of women and gender considerations from the peace process proved to be a key factor in our inability to implement the Lusaka Protocol and in Angola's return to conflict in 1998".[10] In countries such as Cambodia and East Timor, on the other hand, women played a vital role in ensuring more transparent constitution-drafting processes, "which open[ed] the way for broader civil society input".[11] However, the reality is that overall, women continue to face institutional, religious, cultural and other barriers to equitable political participation, which translates into women's needs being neglected in post-conflict peace negotiations that often include the drafting of new constitutions and the reallocation of productive resources such as land, housing and educational opportunities. Ensuring that women have a substantive seat at the negotiating table begins to redress those inequalities.

Further, if we want U.S. investments in peace building and reconstruction to be sustained in the long-term, it is essential to focus on women's economic development as part of the larger comprehensive package of rebuilding services. Lack of economic options after the war in Bosnia and Herzegovina, for example, led to exponential increases in prostitution and trafficking as Bosnian women comprised the majority of the poor population and thus became easy targets for human trafficking schemes.[12] Conversely, even in the poorest communities, when women are provided with economic options the results have a multiplier effect as women reinvest extra income in the health care, education and nutrition of their families. In addition to reducing poverty, women also tend to reinvest extra income into better housing, improving the quality of life for the entire family. The woman herself is also less vulnerable to trafficking and HIV/AIDS, and has more options in the face of domestic violence as many women experience increased levels of this post-conflict. In post-conflict Colombia, a 2005 USAID gender assessment reported a "disastrous escalation of domestic violence" when demobilized

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[9] Guttmann, J. Michéle and Catalina Rojas with Virginia Lambert. "Gender Assessment Colombia." United States Agency for International Development (USAID). August 2007. http://www.devtechsys.com/publications/documents/GenderassessmentUSAIDColombiaFINAL.pdf

[10] Steinberg, Donald. "Failing to Empower Women Peacebuilders: A Cautionary Tale from Angola." PeaceWomen E-news. 25 April 2007. http://www.peacewomen.org/resources/Angola/DDR_1325.doc.

[11] Omang, Joanne and Ketayoun Darvich-Kodjouri. "Women and the Road to Peace and Stability." Women Lead Fall 2007: 6.

[12] Women for Women International. "Fact Sheet on the Status of Women in Bosnia and Herzegovina." http://www.womenforwomen.org/swbosniaandherzegovina.htm.

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combatants returned home.[13]

The outcomes of investing in women also directly impact a nation's ability to increase and sustain economic growth and achieve good governance. The World Bank estimates that unequal education and employment opportunities for women in Sub-Saharan Africa are estimated to have suppressed annual per capita growth by 0.8 percentage points between 1960 and 1992. This is significant, as a boost of 0.8 percentage points per year would have doubled economic growth over the period.[14] In a 2004 hearing before the Congressional Human Rights Caucus on post-conflict reconstruction in Afghanistan and Iraq, panelist and Senior Council on Foreign Relations Fellow Isobel Coleman said it best: "Let me be clear: if these countries do not integrate women broadly into their reconstituted societies, giving them equal educational and employment opportunities, and upholding their political rights, they will stagnate economically and be unable to transition to functioning democracies".[15] This continues to hold true, not just for Iraq and Afghanistan, but also in the Democratic Republic of Congo and other nations struggling to overcome conflict.

Program Design is Paramount

When incorporating strategies to increase women's participation in rebuilding programs, it is imperative to consult with women beneficiaries and collaborate with women's civil society groups in all stages of project design, planning, implementation, monitoring and evaluation. To begin with, women's security should be the primary consideration in all program design, particularly for displaced women. A Doctors Without Borders report on Darfur and Chad noted that 82 percent of the rapes they treated occurred when "women left the towns and displaced persons camps in search of firewood, water or grass for animal fodder".[16] By consulting with the local experts and beneficiaries, programs will effectively capture the different constraints women face in accessing training, education and jobs in addition to concerns for personal security, such as transportation, household tasks, childcare responsibilities and overcoming social norms about women's roles in and outside of the home. Projects should work to re-build the capacity of local women's civil society groups in delivering programming to increase prospects for sustainability beyond the reconstruction phase.

Project implementers at all levels must also be trained in sensitivity to gender, that is, the different roles, responsibilities and resources that men and women have in a community. Without this awareness, and attention to the ways that gender changes program design and delivery, projects could do more harm than good and at the very least will fail to meet the needs of male and female participants. For example, economic integration programs for the demobilized should reflect the specific needs and abilities of female combatants to ensure buy-in of participants. There are examples from Colombia where USAID programs did not capitalize

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[13] Guttmann, 2007.
[14] Ellis, Amanda, Claire Manuel, and C. Mark Blackden. Gender and Economic Growth in Uganda: Unleashing the Power of Women. Washington, DC: The World Bank, 2006.
[15] Coleman, Isobel. Testimony. Congressional Human Rights Caucus. Washington, DC. 11 March 2004.
[16] *The Crushing Burden of Rape: Sexual Violence in Darfur*, Médecins sans Frontières, March 8, 2005, p. 4. As cited by: Human Rights Watch. "Sexual Violence and its Consequences among Displaced Persons in Darfur and Chad: A Human Rights Watch Briefing Paper. April 2005. http://hrw.org/backgrounder/africa/darfur0505/index.htm.

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on the nursing and accounting skills women acquired working in armed groups. Working on gender stereotypes and without doing any consultation, job trainers created programs for these ex-combatants to work in beauty salons, which the participants had no interest in doing. Even worse, women and girls' risk of sexual exploitation can increase if reconstruction programs fail to specifically target their needs, as was the case after the genocide in Rwanda where resettlement programs did not address discriminatory property laws: "Inheritance laws barred surviving women and girls from accessing the property of their dead male family members unless they had been explicitly named as beneficiaries. As a result, thousands were left with no legal claim to their homes and land. Such impoverished women, returning to their communities without family or resources, are more likely to be caught up in the sex trade".[17]

Monitoring and evaluation of international relief and development projects, particularly attention to gender, is central to ensuring that U.S. government assistance is being used efficiently, that projects continue to respond appropriately to needs on the ground, and that projects are not unintentionally negatively impacting local populations. Local women's civil society groups are a great resource, as they are often established and trusted voices within communities, particularly for marginalized groups like women and children. In the Democratic Republic of Congo, Women for Women International launched a training program in economic and social development for approximately 9,500 women in May 2004. A year into the program, many of the women participants felt they had experienced a positive transformation but realized that they were still limited because of Congolese men's perceptions and attitudes regarding women's social, economic and political roles. By monitoring this program with feedback from participants, Women for Women was able to respond by organizing with local community groups and leaders to train men on gender, resulting in improved communication between husbands and wives and many men recognizing the practical benefits of equality between men and women at the household level.[18]

Although access to income-generating opportunities are a principal concern for rebuilding societies, it should be noted that activities have to be tempered with sensitivity to the traumas women and men have experienced during the conflict. According to a USAID gender assessment in post-conflict Colombia, "women who have suffered the death of a spouse, separation from their family environment and customary activities, and been subjected to violence and sexual violence, need support to adjust to new situations. Including individual and group therapeutic counseling and psychosocial sessions as components of vocational training and job placement programs may boost prospects for success".[19]

Real Solutions

Drafted in consultation with more than 150 groups including U.S. based NGOs, UN agencies and 40 women's groups across the globe, the International Violence Against Women Act (I-VAWA, S.2279) captures best practices and lessons learned from over forty years of development by integrating activities to address violence against women across U.S. foreign assistance programs.

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[17] Amnesty International (AI), *Lives Blown Apart: Crimes Against Women in times of conflict* (2004). As cited by: Ward, Jeanne and Mendy Marsh. "Sexual Violence Against Women and Girls in War and Its Aftermath." June 2006. UNFPA. Brussels, Belgium.
[18] Women for Women International. 2007.
[19] Guttmann, 2007.

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Introduced by Senator Biden and Senator Lugar in October 2007, the I-VAWA would effectively leverage U.S. investments overseas to end human rights abuses like sexual violence in conflict and to achieve stability and poverty reduction. Lead sponsor Senator Biden said recently, "Stopping gender-based violence isn't just the moral thing to do; it's also smart diplomacy since violence contributes to the poverty, inequality and instability that threaten our security."

The I-VAWA tackles the causes and consequences of violence against women comprehensively by integrating these activities across existing U.S. international assistance programs. For example:

- Funding, programmatic support and capacity building would focus on both prevention, such as economic opportunity programs and public education campaigns to change attitudes, and intervention services such as health care for women who have been raped and may become infected with HIV/AIDS.

- In addition, funding would assist locally led efforts to reform legal and cultural practices such as those that allow rape or forbid women from having their own money to feed themselves and their children.

- The I-VAWA also trains military and police forces to better respond to violence against women so that when women report violence they won't be ignored, laughed at or further victimized.

- In crisis situations, the I-VAWA focuses on expanding and coordinating overseas disaster assistance and funding for humanitarian programs to prevent and respond to violence against women and girls, including developing emergency measures to respond to critical outbreaks such as mass rape in armed conflict like in the Democratic Republic of Congo. It also decreases potential sexual exploitation and abuse by humanitarian workers, military and police by creating more accountability through reporting mechanisms and training.

In order for these programs to be sustainable, the I-VAWA directs real resources to support and help build the capacity of overseas expert women's organizations already working to end violence against women and girls in their communities. Women and girls globally will also benefit from increased U.S. and world diplomatic attention as the problem of violence against women and girls moves from an invisible private suffering to a public issue that governments take action to solve.

Current U.S. efforts to address violence against women are well intentioned but fragmented and piecemeal, and that approach has failed to make any large or sustainable changes. There is also no systematic review of best practices and lessons learned, and little measurement of programs' impact. Anti-violence programs are often short-term or simply thrown in as part of another project and there is no coordination within or between the agencies that administer the few small projects. For instance, a school-based violence project may exist in three countries for a few years and a program on women's legal rights may exist in three entirely different countries and be administered by a different agency. By creating a comprehensive, holistic approach focused on a select group of countries the I-VAWA will create concentrated and sustainable change and

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make other existing U.S. programs more effective. I respectfully request Members of the Subcommittee to consider joining Senator Biden and Senator Lugar in co-sponsoring this legislation.

I thank the Committee again for the opportunity to present testimony on such an important issue and would be glad to serve as a resource to the Committee as it examines these critical issues. We look forward to continuing to work with you to ensure that women and men across the world are free to live full, productive lives.

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Written Submission to
United States Senate Committee on the Judiciary

Rape as a Weapon of War
Accountability for Sexual Violence in Conflict

April 1, 2008

Sexual violence targeting women and girls has been a horrifying characteristic of all recent armed conflicts and post-conflict situations, whether as a form of torture, as a method to humiliate the enemy, or with a view to spreading terror and despair. Human rights and humanitarian organizations have reported sexual violence in Afghanistan, Burundi, Chad, Colombia, Côte d'Ivoire, Liberia, Peru, Rwanda, Sierra Leone, Sudan, Chechnya/Russian Federation, Uganda and the former Yugoslavia, just to mention a handful. As there is ample testimony for in this hearing, government soldiers and rebel fighters in the Democratic Republic of the Congo have raped tens of thousands of women and girls over the course of the past decade, and rapes continue in the eastern Congo despite the recent signing of various peace agreements.

There are several reasons for the use of rape as a weapon of war:

First, rape unfortunately will remain a weapon of war as long as women are considered subordinate and unequal to men in times of peace. Perceived as appendages to men, women become a symbol of the enemy's personal property and "honor," and their bodies become enemy territory that must be occupied. In light of this, it is clear that an at least partially effective prevention policy would be the promotion of equality more broadly, and especially as it relates to women's status in their family and communities.

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Secondly, impunity is the rule rather than the exception for sexual violence in times of peace as well as during armed conflict. As such, the failure to prosecute perpetrators of rape in war may be little more than the extension of a prominent failure to take sexual violence seriously in general. In 2006, the United Nations secretary-general released an in-depth study on violence against women, which, among other depressing conclusions, noted that states "to an unacceptable extent" disregard their obligations on the prevention and punishment of violence against women.

Sexual violence in conflict is no exception: prevention efforts fall short, and perpetrators are often allowed to continue abuse with impunity. In many conflict areas, such as in the DRC, seeking justice for crimes of sexual violence is difficult, often dangerous, and frequently beyond the financial means of most victims. In fact, as with most serious crimes in eastern Congo in the past decade, crimes of sexual violence are rarely properly investigated or prosecuted. Both the military and the civilian justice systems are starved for resources and competent personnel. Magistrates are badly paid and poorly trained. More damaging to justice than material shortages are the political interference and corruption that often determine the outcome of cases. The UN special rapporteur on the independence of judges and lawyers, after a visit to Congo in April 2007, concluded that interference by the executive and the army in judicial proceeding was "very common" and that Congo's judicial system was rarely effective with human rights violations generally going unpunished. Many procedures fail to even come close to international standards of fair trials.

While impunity is a reality with regard to all types of human rights violations in Congo, it is exacerbated for crimes of sexual violence due to the dual problem of stigma and denial. Victims of rape and sexual violence are highly stigmatized and sometimes seen as having incited the violence themselves; and magistrates and police officers often do not see rape and sexual violence as "real" crimes.

The United States, through its permanent seat on the Security Council, has the opportunity and, indeed, ethical responsibility to push for more systematic accountability on sexual violence in conflict. The United States Senate should encourage the administration to take immediate steps to further this objective.

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The Security Council is mandated under the UN Charter to address situations that present a threat to international peace and security and is empowered to take action against countries waging war by illegal methods, such as the use of child soldiers and, indeed, using rape as a weapon of war. In words and declared intentions, the Security Council has clearly stated the need to address rape in war decisively. Action to back up these good intentions has, however, been scarce.

In part, the Security Council is hampered by a lack of information. The prevalence and patterns of rape and of sexual violence more generally feature little in the reports the Council commissions and receives from the field offices of the United Nations. There are a couple of reasons for this. First, the Council often does not ask for information on sexual crimes to be included in the reports: a first and crucial failure. Second, even where the Council is specifically asking for information on rape and sexual violence (and often where independent reports have found rape and sexual violence to be pervasive on the ground), country-specific reports to the Council are often silent on this issue. Moreover, there is no real impetus for the Council members to act on the information it *does* receive regarding rape and sexual violence in war. As a result, in several cases, such as in the recent renewal of the Cote d'Ivoire UN mission mandate, the Council has chosen not to act despite credible information on rape and sexual violence that are a threat to international peace and security.

The first step to solve these problems is a more systematic gathering of information. A second essential step is analysis and structural impetus to act.

Concretely, Human Rights Watch believes that the serious gaps in the Security Council's approach to rape and sexual violence would be best bridged by the establishment of a permanent subsidiary body or other mechanism linked directly to the Security Council, with a mandate to report on and monitor instances of sexual violence n situations under the Council's mandate.

The Senate can play a crucial role in asking the administration to make Security Council action on this issue a priority for its June 2008 presidency of the Security Council. Strong Security Council action on rape in war will of course not end all sexual violence in conflict, just as the Council's more systematic monitoring and addressing the use of child soldiers has not eliminated this abhorrent practice. However, experience shows that condemnation, exposure, and the potential imposition of sanctions do have an impact on the action of parties to armed conflicts and their supporters.

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Background Note and Recommendations on Ongoing Transitional Justice and Gender Issues in the Democratic Republic of Congo

Submitted by the International Center for Transitional Justice

April 4, 2008

Introduction

The International Center for Transitional Justice (ICTJ) welcomes the work of the U.S. Senate Subcommittee on Human Rights and the Law. The Center is pleased to submit a statement to the Subcommittee regarding strategies it believes can help address sexual violence in conflicts, with a focus on the Democratic Republic of Congo (DRC).

In numerous recent conflict and post-conflict contexts, there has been an evident upsurge in sexual and gender-based violence (SGBV) against women, girls, men, and boys. Civilians have been increasingly targeted during conflicts - while 100 years ago war affected ten percent of the civilian population, it now impacts on 90 percent, of which women and children constitute the majority. Rape has been integral to war strategies in many contexts, but unfortunately the role of armies and non-state actors as perpetrators of gender based violence is often simply accepted as a consequence of war. This is particularly stark in the DRC where sexual violence has currently reached epidemic proportions.

International law is evolving to respond to the pervasive nature of gender based violence in conflicts, especially sexual and reproductive violence. Initiatives include the 1998 Rome Statute establishing the International Criminal Court (ICC) which expanded the definition of crimes against humanity to include rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence. UN Security Council Resolution

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1325 on Women Peace and Security of 2000 commits the United Nations and its member states to improve the protection of women in conflict zones. At the continental level, the African Union's Protocol on Women of 2005 also includes a number of articles which specifically address the need to protect women's rights in conflicts and the need to ensure gender sensitive justice. Despite this increased international recognition that fundamental human rights include the protection of civilians from sexual violence, these crimes nonetheless remain widespread.

In the context of the DRC, impunity for sexual violence both preceded the recent conflicts and continues unabated in the post-conflict period. A key feature of the conflicts in the DRC has been the endemic rates of sexual violence (including sexual slavery, abduction, forced pregnancy and the intentional transmission of HIV/AIDS) and the systemic use of rape as a weapon of war by all armed forces and armed groups, leading John Holmes, the United Nations under secretary general for humanitarian affairs, to describe sexual violence in the region as "the worst in the world".[1] While official statistics are lacking, it is estimated that over 250,000 were raped or sexually mutilated during the conflicts, including up to two thirds of girls and women between the ages of ten and thirty in eastern DRC. It has also been suggested that 70 percent of these attacks were part of a coordinated strategy of war.

Current statistics of SGBV are equally difficult to confirm, but the United Nations Population Fund (UNFPA) estimated the occurrence of 300 rape cases a month in North Kivu alone during 2007. Médecins Sans Frontières-Suisse has noted that since 2003, between 30 and 500 patients reported sexual assaults every month in Ituri. According to Panzi General Hospital's director, Denis Mukwege Mukengere, the hospital in Bukavu, South Kivu's capital admits at least ten victims of sexual assault daily, an average of 3,600 cases a year. Since 2000, an

[1] www.care.org/newsroom/articles/2007/12/20071210_drc_sexualviolence.asp

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estimated 16,000 victims of rape, many suffering from obstetric fistula[2], have been treated at the hospital. Between June 2006 and May 2007, UNICEF identified nearly 13,000 survivors of sexual violence in the eastern Congo of whom 33 percent were children.

Yakin Erturk, the UN Human Rights Council's Special Rapporteur on Violence against Women, has estimated that 4,500 cases of rape were reported in South Kivu in the first six months of 2007 alone, with many more going unreported. Sexual violence, she noted, was perceived as "normal" by local communities. And according to the UN World Food Programme: "Rape remains a daily threat for women in eastern DRC: in the fields, on their way back from market or in their own homes. Victims say all the armed groups are responsible."[3] Achieving justice for Congolese women and girls will require breaking this cycle of sexual violence, and ensuring it does not become normalized as part of women's everyday lives.

The Congolese government must be held accountable for its failure to address the high rate of sexual violence perpetrated by its own forces and the myriad militias operating in its territory, particularly in the East. With its specialist knowledge in the field of transitional justice and gender, as well as its experience of working in the DRC since 2003, the ICTJ is uniquely placed to suggest ways in which the U.S. and the international community can better promote accountability for SGBV in the DRC.

The ICTJ believes that a far-reaching approach is needed to provide accountability and redress for victims of sexual violence and that this approach should include prosecutions, truth-telling initiatives (such as truth commissions, whether local or national), reparations, and

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[2] Obstetric fistula (or vaginal fistula) is a severe medical condition in which a fistula (hole) develops between either the rectum and vagina or between the bladder and vagina. Sexual abuse and rape are among the causes for the development of obstetric fistula, especially within conflict/post-conflict areas.

[3] http://www.alertnet.org/thenews/newsdesk/IRIN/54adc57b1de7f9627334202d58d1f9f9.htm

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institutional reform. Vital to addressing sexual violence, efforts to ensure effective reforms must include gender-sensitive strategies for the demilitarization, demobilization, and reintegration (DDR) of former combatants and for the reform of the military, police, and the judiciary through security sector reform (SSR).

Context

The DRC has endured a number of conflicts since its independence from Belgium in 1960. Preisent Mobutu Sese Seko controlled the country from 1965 until he was deposed in 1997. In 1997 Mobutu's overthrow by Laurent Kabila led to outbreak of conflicts. This left an estimated 5.4 million dead[4], hundreds of thousands displaced, and countless victims of gross human rights violations. The conflict was exacerbated by an influx of refugees as a result of the 1994 Rwandan genocide, as well competition between various armed groups over the country's abundant mineral resources, particularly in the east. Despite the fact that DRC's conflicts have proved the most deadly to civilians since the Second World War, the international community has failed to respond coherently to this catastrophic situation. The most recent setback is the UN Human Rights Council's failure to renew the mandate of the Special Expert for the DRC in March 2008.[5]

The Sun City Accords of 2002 established a transitional government based on power-sharing agreements among the belligerents. Since the 2006 elections which led to the presidency of Joseph Kabila, there have been some positive developments such as the passage of a new constitution. However, there is little political will to address justice and human rights issues.

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[4] International Rescue Committee, 2008.

[5] UN: Rights Council Fails Victims in Congo, Human Rights Watch, 27 March 2008. Formerly appointed by the UN Secretary General and now by the Human Rights Council, "special procedures mandate" holders are experts who investigate geographic and thematic issues of great concern for human rights agendas. The mandate of the special expert for the DRC was not renewed.

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Furthermore, there was no concerted attempt to prevent the subsequent resumption of fighting in the eastern part of the country. Atrocities against civilians, including epidemic levels of sexual and gender-based violence and pillaging of natural resources continued.[6] An estimated 30,000 children continue to serve as child soldiers despite enormous international attention on the conflict and increasing concern regarding the issue of child soldiers.

In January 2008, the government and all armed groups in North and South Kivu, signed a new peace accord, following a renewal of armed conflict in which more than 400,000 people were displaced, scores of civilians were killed or abducted, and widespread rape and looting and destruction of property occurred. The January 2008 Goma Conference on Peace, Security and Development raised hopes of ending the conflict in the Kivus.

However, there is no reason to assume this will prevent the epidemic rate of sexual violence. Armed groups continue to impose a reign of terror on the civilian population and the army and police are believed to be responsible for the vast majority of current human rights violations. The catalogue of serious human rights violations (summary executions, rape, torture, assault) investigated by United Nations Organization Mission in DRC (MONUC) and ascribed to security forces is a daily reality for a majority of the population.

Impunity for sexual-based violence committed during the conflict has severe repercussions on the level of sexual violence endured in civilian life – whether by still active forces, demobilized combatants, peacekeeping forces, or family members. The consequence of rape on this scale has created a public health disaster: HIV infection rates are thought to be as high as 27 percent among rape survivors; fistulas, urinary and fecal incontinence, and permanent

[6] "A First Few Steps: The Long Road to a Just Peace in the Democratic Republic of Congo, International Center for Transitional Justice, Occasional Papers Series, October 2004.

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damage to women's reproductive organs are widespread. Furthermore, families keep children at home fearing for their safety, thus interrupting a generation's education. Rape survivors, their children, and children of rape are stigmatized, rejected or otherwise re-abused by their communities.[7] This particular vulnerability of women and girls is compounded by the secondary role women play to men in positions of political, economic and social power in the DRC.

Legal Frameworks, Impunity and the Implementation Gap

The DRC is subject to both international and domestic legislation regarding SGBV. It is signatory to several international treaties, including The Convention on the Rights of the Child, the Rome Statute of the International Criminal Court, the Convention on Elimination of all Forms of Discrimination Against Women, and the African Charter of Human and People's Rights. These treaties all promote the right of women and girls to be protected from violence.

The International Criminal Court's first prosecution centered on the DRC will try Thomas Lubanga who is accused of recruiting and using child soldiers. Despite intensive lobbying by gender activists, the charges against Lubanga failed to include sexual violence, despite evidence of links to the widespread sexual enslavement of girls.[8] More recently, ICC prosecutors have charged two additional DRC militia leaders, Germain Katanga, the former senior commander of the FPRI militia group, and Matthew Ngudjolo, the former leader of the National Integrationist Front militia group.[9] The International Criminal Court has an opportunity

[7] USAID/DCHA Assessment report: "Sexual Terrorism: Rape as a Weapon of War in Eastern Democratic Republic of Congo" www.peacewomen.org/resources/DRC/USAIDDCHADRC.pdf
[8] http://www.iccwomen.org/publications/briefs/index.php

[9] DRC is a signatory to the Rome Statute establishing the International Criminal Court and as such when rape and sexual violence are committed as part of a widespread or systematic attack against any civilian population, they are considered crimes against humanity, and in some cases may be considered part of genocide.

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to establish precedents in the Germain Katanga trial, when he faces nine counts of war crimes and crimes against humanity, including sexual slavery.[10] ICC prosecutors have also accused Matthew Ngudjolo of nine counts of war crimes and crimes against humanity, including murder, inhumane acts, sexual enslavement and using child soldiers in connection with an attack on Bogoro in which 200 civilians died.

While the successful prosecutions of Lubanga, Katanga, and Ngujulu may provide some deterrent, most high ranking members of the armed forces accused of serious human rights violations enjoy almost complete impunity. In reality, the vast majority of perpetrators will never be prosecuted.

Furthermore, the prosecutions are unlikely to impact the ongoing endemic rate of sexual violence. It will fall on national institutions to bear responsibility for bringing perpetrators of sexual violence and other human rights violations to justice. Therefore, national courts have a critical role to play in the prosecution of perpetrators of sexual violence.

The DRC's domestic framework includes several structures and laws to address sexual violence. In February 2006, the new constitution specified the need for the elimination of all forms of discrimination against women.[11] In June 2006, the National Assembly approved

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[10] Women's Initiatives for Gender Justice: http://www.iccwomen.org/news/docs/Launch_GRC_2007.pdf

[11] It includes the following provisions:
"The public authorities will make sure that any kind of discrimination against women is eliminated and they will ensure women's protection as well as promoting women's rights.
"They will make sure that any kind of discrimination against women is eliminated and they will ensure women's protection as well as ensuring women's rights.
"They will take, in every area, and notably as far as civil, political, economic, social and culture areas are concerned every appropriate measure to ensure a comprehensive fulfillment and participation of women in developing the nation.
"They will take every measure to fight against any type of violence made against women, in their privacy as well as in their public sphere.
"Women are entitled to be equally represented among national, provincial and local institutions.

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legislation expanding the definition of rape to include rape of male victims, sexual slavery, and sexual harassment among other crimes. The law requires timely investigations, judicial in camera hearings to protect victim confidentiality, and free court services, psychological and medical assistance and legal assistance for victims.[12] However, this sophisticated piece of legislation is seldom implemented for a variety of reasons ranging from capacity, the weak judicial system and poor infrastructure. A further obstacle is the lack of provision for witness protection under Congolese law; victims and witnesses genuinely fear reprisal. The costs involved in bringing a case to court put justice well beyond the reach of most women. Not only are the police not trained in investigating sexual violence, but many women fear reporting rape for further risk of being raped again at the police station.

A significant development has been the use of military tribunals to try cases of SGBV as crimes against humanity in the DRC. In April 2006, a military court in Mbdandaka found seven army officers guilty of mass rape of more than 119 women[13] (according to the UN estimate the number was over 200)[14] at Songo Mboyo on 21 December 2003, the first time rape was tried as a crime against humanity in DRC, and the first such sentence against FARDC personnel for these crimes. The FARDC is the new national army known as the Armed Forces of the Democratic Republic of Congo.[15] The officers had rebelled against their commanders and attacked the villages of Songo Mboyo and Bongandanga. For the destruction of the villages and the mass rape, they received sentences of life imprisonment (although the charges could carry the death

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"The State ensures the implementation of men-women parity in those institutions.
"The Law settles the implementation of modalities of those rights."

[12] Loi no. 06/018 20 July 2006

[13] The Norwegian Council on Africa

[14] UN News Centre

[15] UN Action Report Work in Progress

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penalty). The verdict requires that each victim's family receive reparations in the amount of US$10,000.00. Rape victims are to receive US$5,000.00

These men were former members of the rebel group MLC (Mouvement pour la Liberation du Congo), who had been integrated into the FARDC. All those found guilty escaped and are now at large. The limits of the Songo Mboyo case underscore the great challenge and importance of ongoing military tribunals. It also points to the need for gender-sensitive, well-planned and properly-resourced efforts in DDR and SSR.[16]

However, turning the FARDC into a disciplined force subject to democratic control is not simply a matter of promoting technical expertise in DDR and SSR programs. There are considerable vested interests in maintaining the status quo. The current chaos within the army and particularly in areas rich in natural resources are often linked to serious profit-making enterprises. Corruption – in financial terms and disguised as patronage – is endemic throughout the country. However, this should not prevent attempts to further push for security sector reform, including ensuring representation of women in all security forces as well as using training and other strategies to transform the culture of these forces to ensure that all citizens and women in particular are protected rather than preyed upon.

Furthermore, while prosecutions should be a priority, it is important to recognize not only DRC's structural limitations but also the fact that prosecutions can create limitations in addressing victims' calls for justice. Rehabilitation and repair are vital to address SGBV crimes and a number of transitional justice mechanisms have the capacity to bridge this gap. As has

[16] There is no lack of information on gender-sensitive approaches to DDR and SSR. See for example, "MONUC: DDRRR, DDR, Military and Rule of Law Reform—Reducing Violence Against Women: Recommendations for Change (Action Aid, 2006) and Megan Bastick and Kristin Valasek, (eds), "Gender & Security Sector Reform Toolkit", the Geneva Center for the Democratic Control of Armed Forces, OSCE/ODIHR, and UN-INSTRAW, 2008.

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been shown in a number of alternative contexts where SGBV has been endemic, legitimate, locally-driven and consultative truth commissions can provide victims of SGBV an opportunity to voice their experiences and this is often more inclusive than the story which may be appropriated for the purpose of a trial. A number of truth-seeking initiatives have revealed their ability to empower women on a public stage to tell their story and this in turn helps dispel the shame and stigma that often shrouds gender based violence. They also have the potential to encourage men and boys to share their experiences of sexual violence. Truth-seeking initiatives afford the opportunity to document the role of SGBV in the conflict and its effects in the aftermath of conflict, making those connections which are often overlooked. Furthermore, commissions provide scope for the making of recommendations based on the specific needs of victims, such as addressing issues such as fistula as well as identifying further methods of accountability for perpetrators.

As indicated in the Songo Mboyo case, reparations have already been used as a strategy in the DRC but these can be developed more creatively beyond monetary payment. There are options for reparations to be linked to the promotion of community education on SGBV and stigma or more broadly to support memorials, which recognize this scourge. While there are obvious resource limitations, there is a moral imperative for the state and actors to recognize their role in the high levels of SGBV and thus to try to provide some measure of reparations that are not tainted by politics and do not further regional divisions.

The world is well informed of the epic and increasing levels of sexual and gender-based violence in the DRC. However, despite the involvement of dozens of United Nations and bilateral agencies, as well as international human rights and humanitarian organizations in the country, the severity of gender-specific violations is often overlooked in transitional-justice-

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oriented interventions. The United Nations, international organizations, and governments interested in human rights, such as the United States, must assume leadership in encouraging the Congolese government and the international community to end impunity for sexual violence as a weapon of war. Prosecutions at all levels will demonstrate zero tolerance for the idea that rape is an inevitable part of war for which leaders and combatants will not be held accountable.

RECOMMENDATIONS

The International Center for Transitional Justice has been engaged in the DRC since 2003 and opened its Kinshasa office in the DRC in 2006. Based on the social, political, and legal contexts in the DRC, in-country engagement, ongoing research, and victims' surveys, the ICTJ's DRC office and the Gender Program staff have identified key priorities and recommendations.

These include:

1. **Continued support for ongoing initiatives** to increase security throughout the country, and particularly in the East, through engagement with the US embassy and collaboration with Special Envoy, Tim Shortley. Although the Amani program (the government's follow-up to the Goma conference) is still in its early stages, it offers the potential to address security in the Kivus. As levels of gender-based violence are intrinsically connected to armed conflict in this region, as elsewhere, combating the conflict will alleviate violations against women and girls.

2. **Disarming and demobilizing remaining militia**, both foreign and domestic, must remain a priority, as it will increase security for all and for women and girls in particular. It is important to note however, that disarmament and demobilization will not in themselves resolve the problem of sexual violence, and may instead simply move violence to the home: the increased incidence of rape in the civilian population is often closely linked to the presence of

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demobilized combatants. Consequently, while disarmament and demobilization are a crucial step, they must be developed in the context of a holistic reintegration program and of ongoing security development for women and girls.

3. **Strong United States support for vetting** of public institutions, including the army. Vetting programs and procedures can be developed and carried out in collaboration with the United Nations Mission in DRC (MONUC) subsequent to the inclusion of vetting in MONUC's mandate following United Nations Security Council Resolution 1794 in December 2007.

4. **United States government support for the successful prosecution of senior officers** for rape and sexual violence, including but not limited to orchestration of rape campaigns, supporting a culture of using rape as a weapon of war, and failing to prevent the men under their command from committing sexually-based or gender-specific human rights violations. Prosecutions of high-ranking officers for SGBV is a first step toward addressing impunity for these crimes since training and/or sensitizing for lower ranks will always falter if those in command remain immune from prosecution for these acts.

5. **US Advocacy** for legal provision for witness protection under Congolese law. The absence of this results in systematic intimidation of witnesses and victims in the few cases that come to trial.

6. **Support for legal redress for victims through either domestic or mixed courts/tribunals** and sponsoring the creation of a court exclusively for SGBV cases.

7. **Promoting** accountability and redress for victims of sexual violence through alternative transitional justice mechanism such as truth-telling initiatives, reparations, and institutional reform.

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8. **Avoid separating gender based-violations from other human rights violations affecting women and men**; it is already a low national priority, and international efforts to address gender-based violence in isolation from other human rights violations is likely to further increase the belief that this is "foreign" rather than national justice.

9. **Support efforts to increase representation of women in public institutions** to help address women's low status. Article 14 of the Constitution calls for gender parity in public institutions, though the government has not formulated any plans to address the dismal male-to-female ratio in public institutions.

The extent of sexual and gender-based violence in the DRC has been well-documented and reported by the media, NGOs and international institutions. Initiatives and calls for mobilization against sexual violence have multiplied over the years, but have failed to deliver adequate results on the ground. We look forward to the United States taking leadership in helping to address the grave human rights abuses experienced by Congolese citizens, most specifically sexual and gender-based violence.

About the International Center for Transitional Justice

The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. Contributions to this report came from ICTJ's Kinshasa and Cape Town offices, as well as the Gender Program and the Africa Program.

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Testimony of
Lisa F. Jackson
Documentary Maker and Director of "The Greatest Silence: Rape in the Congo"

Before the
Subcommittee on Human Rights and the Law
Committee on the Judiciary
United States Senate

"Rape as a Weapon of War: Accountability for Sexual Violence in Conflict"
April 1, 2008

Chairman Durbin, Ranking Member Coburn, and Members of the Subcommittee, I am honored to be asked to come before you to describe from my own perspective some of what I witnessed and heard in the months that I spent in the Eastern DR Congo in 2006 and 2007 shooting a documentary film. During that time I interviewed many women and girls who had survived sexual violence. I talked with peacekeepers, priests, doctors, activists, international aid workers and, most chillingly of all, with a dozen self-confessed rapists, uniformed soldiers in the Congolese army who boasted to my camera about the dozens of women they had raped. What I heard in the Congo has altered the course of my own life, and I hope I can convey to you here today even a small sense of the profound impact that the women – and men - of the Congo had on me.

I want to add a personal note: in 1976, here in Washington DC, I myself was gang-raped. The three men who attacked me that night in Georgetown were never found and the statute of limitations on the crime expired long ago. I shared my story with the raped women I met in the Congo and they all asked about the war that was happening in my country. I explained to them that even in peacetime, women are not safe.

And while I'm grateful that the Subcommittee has taken on this formidable issue of sexual violence in conflict, it is a bit stunning that it has taken until mid-2008 for this subject to be addressed in these halls. The past century offers too many examples of rape being used as a weapon of war: the Japanese rapes during the 1937 occupation of Nanking, an estimated 200,000 women raped by Pakistani soldiers during the battle for Bangladeshi independence in 1971, the horrors of Bosnia and its infamous rape hotels, Rwanda with half a million rapes on top of the genocide deaths, the systematic raping of women by the Janjaweed in Darfur – the list goes on. The title of my film is "The Greatest Silence", taken from the opening of line of a survey co-written, in 2002, by Ellen Johnson Sirleaf, the president of Liberia: "Violence against women in conflict is one of history's greatest silences." And, sadly, history proves she is right.

But even in the context of this horrifying litany of the suffering of women in war, what has been happening in the Democratic Republic of Congo in the last 10 years is beyond the pale of any historical precedent. Congo's war is a war against women, a war in which

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women's bodies have become the battleground, where no woman is safe. Hundreds of thousands of women and girls have been intentionally and systematically targeted, gang raped, mutilated, forcibly abducted for many months to vast inaccessible forest areas and used as sexual slaves. They are attacked by armed militias from Uganda and Burundi, by Hutu *genocidaires* who fled from justice in Rwanda, by warlords and their thugs, and by members of the very army and police forces that are supposed to protect them. United Nations peacekeepers have also committed rape and sexual exploitation. It is a femicide, pure and simple, and it is my hope that what you hear today will move this august body to action.

There will be other witnesses today who can speak with more knowledge than I about the roots of this conflict, but I have come to understand that it is a war that is being fought over riches, not ideologies. Congo's vast resources have been a curse since it was a Belgian colony over a hundred years ago, and today various national armies and Congolese factions are devastating the civilian population in order to loot the country's resources, the minerals, especially tin, cobalt and coltan, that we all require for our consumer electronic devices. Perhaps another hearing might more thoroughly explore the causes and ruinous consequences of this illegal plundering, but everyone in this room should consider the fact that there is the blood of Congolese women on their laptop computers and on their cell phones.

I first went to South Kivu, a province in the eastern DRC, in the spring of 2006, to investigate what was happening there for a documentary film about the fate of women and girls in conflict. I went in search of rape survivors who might tell me their stories and I found many dozens of raped women, women of all ages, too many women who at times would line up for hours, waiting until after the light disappeared and my camera could no longer record an image, waiting to talk to me, waiting to tell their stories to someone who would listen to them without judgment, hoping that I would relay their stories to a world that seemed indifferent to their horrific plight. I talked to them in their hospital beds, sitting on dirt floors in their mud huts, on the hard benches of a parish church, in the offices of NGOs where a few lucky ones had found skills training and shelter. These women might be just statistics to some, but to me they have names, faces, lives and stories that I will never forget.

Muhindo, a somber, dignified woman of 52 with five children, had been kidnapped from her home, dragged into the bush by soldiers from a Rwandan armed group who held her captive for two months. They used her as a sex slave, raped her daily, and forced her to carry their loads, cook their food and wash their clothes.

Veranda is 35 years old and has survived two attacks; she was first raped by Rwandese militia - the Interahamwe group - and again by thieves dressed in Congolese Army uniforms.

Safi lives in the hills above Bunyakiri and was raped at age 11 while her home was being looted by soldiers. Her huge eyes still have a slightly stunned look as she tells me that when she grows up she hopes to be a nun.

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Maria Namafu was 70 years old when she was raped by three soldiers. When she told them "I am an old woman" they said "you're not too old for us."

Faida was kidnapped from her home in Bunyakiri, enslaved and raped repeatedly by Interahamwe soldiers. She died from the resulting infections in 2007.

These are five out of literally hundreds of thousands of victims. Why is it that we know so very little about these women? Why has the world's press been so silent? Why in the past ten years has there been only ONE front-page story in the New York Times about the epidemic of sexual violence that is devastating the Congo? And why is it that rape in conflict is so infrequently prosecuted in the world's courts for being the heinous crime of war that it is? Where is the outrage? Perhaps there is some explanation in a comment made to me by a colonel in the UN peacekeeping force when I asked him about rape in the Congo. His candor somewhat surprised me:

I think we're all very ignorant of it. I think it's an issue that we want to push to one side. I don't think, as a human, I feel particularly comfortable sitting and talking about it here, for example. But it happens here on a huge scale and I agree, it is not spoken about.

But we can speak about the dead: the DRC is a country where, according to recent estimates by the International Rescue Committee, war has claimed over 5 million lives. Five million. That is more than 10 Darfurs. The conflict in Darfur has inspired countless newspaper articles, op-ed pieces, books, movies, mass demonstrations and the attention of major movie stars.

Why is no one standing up for the people of the Congo, crying out for Congo's dead, or pleading for its raped women, many of whom have literally become the walking dead? Because whether a woman is raped at gunpoint or forced into sexual slavery, the sexual abuse will shape not just her own but her community's future for years to come. Rape survivors face emotional torment, psychological damage, crippling physical injuries, disease, social ostracism and many other consequences that can devastate their lives and the lives of their families

I think about **Marie Jeanne M'wamasoro**, a 34-year-old mother of eight, who was raped by five members of a Rwandan armed group when she was six months pregnant. She has been abandoned by her husband who tells their children that she wanted to be raped. She knows that she is stigmatized for life and says to me, with tears spilling over:

"My heart is broken. I know that wherever I go people will say 'that woman was raped.'"

And **Imakile Furha** who is now 18 years old and was raped at age 15 by two members of a Rwandan armed group who broke into her home in the middle of the night. She has a daughter, Lumiere, from those rapes, and she lives with a burden no teenager should have to bear:

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"There is nothing I can do about the past. But sometimes I spend my days crying. I really don't have a plan for the future. I hope that by the grace of God I will find someone who will marry me."

The lives of these women – and their children - have been forever altered, and some of them destroyed. What I am going to read to you now is a transcription of one survivor's incredible soliloquy. She was part of a group of women who had been kidnapped and held as sex slaves. She stood up, unprompted, spoke directly to my camera and told me:

I am very thankful, because we believe that with your arrival here we will get help. The same painful thing has happened to every woman in this room.
They have taken our belongings.
We were raped by twenty men at the same time.
Our bodies are suffering.
They have taken their guns and put them inside of us.
They kill our children and then they tell us to eat those children.
If a woman is pregnant they make your children stand on your belly so that you will abort.
Then they take the blood from your womb and put it in a bowl and tell you to drink it.
When we were living in the forest it wasn't just one man. Every soldier can have sex with you.
We got pregnant there. We gave birth in the forest, alone, like animals, without food or medicine.
We are all alone-- our husbands have been killed, or they have denied us. Even our families have denied us.
We don't know what to do, where to go.

When she finished speaking, she turned to the wall, covered her face, and wept. Her story was no exaggeration – I heard its variations many times: the cannibalism, the egregious acts of brutal violence, unspeakable degradations, the abandonment, the shame, the total despair.

I thought about this woman, whose name I never discovered, when I interviewed soldiers, members of the national Congolese army, who talked brazenly to me about the rapes they had committed. They were practically swaggering, describing their reasons and methods of rape without shame, guilt or even a hint of remorse, because they knew that in Congo's culture of impunity they would face no reprisals for their crimes.

If she says no, I must take her by force. If she is strong I'll call some friends to help me.

I rape because of the need. After that I feel I am a man.

I have no time to negotiate; I have no time to love her. I am in need. If I ask and she says no, I will take her by force.

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The women were afraid and when they resisted I told them I would use my gun to get what I want and most of the time they ended up accepting.

We rape because God said that man is superior to woman. The man must command, must give the orders, and must do whatever he wants to a woman.

I asked the soldiers how many women they had raped. Five, eleven, eighteen they replied. One man had lost track:

It's hard to keep record of the number of women that I've raped. The thing to keep in mind is the fact that we stayed too long in the bush and that induced us to rape... You know how things are in combat zones. We raped as we advanced from village to village. For an approximate number, I'd say maybe twenty-five.

In my 30 years of filmmaking, interviewing these soldiers was the single, most devastating moment I had ever experienced. I had just recorded men confessing to unspeakable crimes and when the interviews were over they just melted back into the forest. There was no one around to arrest them, they were not talking to me from a jail cell. And as they vanished into the bush I thought to myself, who will be their next victims?

These soldiers represent a tiny fraction of the gruesome overall picture. A common concern that was expressed over and over again in the course of my interviews was that of impunity. The widespread rape and sexual violence is fuelled by a pervasive culture of impunity that the Government of Congo seems unwilling or unable to combat.

When women come together, their anger is palpable. In a meeting I filmed of a support group of raped women in the small village of Bunyakiri, one lamented bitterly:

And more than once we went to our chiefs to explain the problem and they did nothing. They talk about parity between men and women but this is a dream for us. Impossible! We are considered half human beings.

Yes, the government passed a sweeping new law last year regarding sexual violence, a law that, for instance, finally made rape with guns and sticks a crime, but I heard over and over again stories about the futility of enforcement, about rapists who would pay a bribe of 3 or 4 dollars and walk free, about jails with no locks on the cell doors, about sex crime units with – literally – a staff of one, and about women who face brutal reprisals if they speak out about the crimes perpetrated against them or dare to denounce their attackers. They are left to bear the pain alone, without the solace of peace, or the possibility of justice.

As one women's advocate in Kinshasa said to me:

The rapists of yesterday have today become the authorities and they encourage sexual violence because for them it has become a lifestyle. That is why the violence doesn't end.

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The international community cannot continue to turn a blind eye to these atrocities or afford to wash our hands of the Congo because an elected government is now in place. We cannot speak of peace in Congo while rampant sexual violence continues unabated and a war continues to rage against women and girls. In the face of the government's impotence or unwillingness to intervene, the international community must act to bring an end to these deplorable crimes.

- A country that allows this to happen to its most vulnerable citizens does not deserve to be counted among the league of civilized nations. Future U.S. aid to Kabila's government should be contingent on Congo's meeting set human rights benchmarks, including insuring the protection of women from sexual violence, assistance to victims, prompt investigation and prosecution of perpetrators and establishing security in all regions so that the women of Congo can live their lives with the dignity and safety entitled to every human being.

- Likewise, U.S. funds earmarked for the DRC's military should be suspended until soldiers accused of – or confessing openly to – rape are brought to justice.

- While progress has been made through the recent UN Security Council's Resolution calling for all members of the FDLR, ex-FAR/Interahamwe, and other Rwandan armed groups operating in the eastern Democratic Republic of the Congo to immediately lay down their arms, it is imperative to ensure that individuals who are responsible for grave sexual violence and systematic rape - war crimes and crimes against humanity - do not receive protection through repatriation. The search for peace must not include amnesty for these crimes committed against women.

We must use all our leverage to end this violence. The violence must end, for the sake of the women and girls, for the sake of the Congo, and for the sake of the future of Africa.

As an angry and frustrated policewoman in my film comments,

And, so, what is a woman? The woman is the mother of a nation. He who rapes a woman, rapes an entire nation. When a woman is exposed to that kind of violence it's the entire country that is affected by it.

I will leave you all with the words of Maria, the 70-year-old rape survivor from Bunyakiri, who said to me:

Our country will be destroyed completely if this keeps happening. Women are suffering. We have forgotten what happiness is.

Thank you.

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Testimony of
Dr. Denis Mukwege
Director, Panzi General Referral Hospital
Bukavu, South Kivu, Democratic Republic of the Congo

Before the
Subcommittee on Human Rights and the Law
Committee on the Judiciary
United States Senate

"Rape as a Weapon of War: Accountability for Sexual Violence in Conflict"
April 1, 2008

Chairman Durbin, Ranking Member Coburn, and Members of the Subcommittee, it is a great honor for me to be invited to testify before this Subcommittee on the acts of violence against the civilian population in the Eastern DR of the Congo.

I thank you for accepting to take your precious time to listen to my testimony about the sexual terrorism that the women in the Eastern DR Congo have lived with for almost ten years. This is known by the national and international community, without anyone making a serious decision to end this shameful crime against humanity in the 21st century.

The word rape or sexual violence cannot fully translate the horror that hundreds of thousands of women are living in this part of the world. My testimony will refer to my daily contacts with these victims in the Hospital, and in the second part, I will illustrate this testimony by 3 typical cases symbolizing the thousands of women whom we treat.

It is important to point out that this sexual terrorism is done in a methodical manner and according to the armed group. Generally the victims are raped:

- By several men at a time, one after another;
- In public, in front of parents, husbands, children or neighbors;
- Rape is followed by mutilations or other corporal torture;
- Sexual slavery often goes on for months;
- All kinds of psychological torture.

a) Complaints

On arrival at the hospital, women victims of sexual violence complain of:

On the physical level:
- Pain in the abdominal pelvic area
- Vaginal discharge
- Pains while urinating
- Genital ulcers
- Genital scars
- Urine incontinence
- Unwanted pregnancies

On the psychological level:
- Insomnia

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- Nightmares
- Palpitations
- Fear of infection or of returning to the village
- Lack of ability to concentrate

On the social level:

- Rejection by the family and by the community
- Isolation
- Destruction of the family cell
- Loss of roots, loss of school attendance

b) Upon medical examination

On the physical level:

- Sexually transmissible infections, especially Chlamydia, which is a source of chronic abdominal pains and resulting in sterility.
- HIV infection accompanied by opportunistic diseases
- Genital lesions from simple wounds to complicated genital lesions stopping urinary or digestive function such as urogenital and rectogenital fistulas, fibrosis of the vagina, etc.

c) Consequences to the woman:

1. On the physical level

- The destruction of her genitals by knives, guns, or abnormal deliveries destroys her future as a woman in everything that entails.
- Infection by sexual transmissible diseases, especially Chlamydia, which destroys her reproductive organs and her dream of having a child.
- Infection by HIV in an unfavorable environment for seeking medical care, along with opportunistic infections, which weaken her potential to be a responsible person, destroys her dreams for the future.

It goes without saying that this woman, who has become incapable of fully using her capacities as a woman because any possibility of motherhood is taken away from her, and in addition is weakened by AIDS, looks forward in her pain to an easy death. However, we are all witnesses that this is voluntary murder.

2. On the psychological level

To be raped in front of:

- Her husband
- Her children
- Her father
- Her neighbors

Deeply humiliates a woman. This brings on behavioral difficulties which can result in suicide, disinterest in living, lack of conscience, and aggressiveness.

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3. On the social level

These women are often rejected by their own family and their husband. This exclusion (isolation) can worsen the behavioral problems which were mentioned before.

4. On the family level

This results in a break up of the family, and often the woman or girl victim is excluded and stigmatized instead of the rapist.
The husband leaves, abandoning his wife (in her traumatic state) and children.
The wife often seeks refuge and becomes internally displaced without any resources.
Often, lack of protection and malnutrition finishes what rape started but didn't finish.

5. On the community level

- The destruction of potential mothers on a large scale
- The spread of HIV on a large scale
- The disappearance of the population without the capacity of renewal of the population

Hypothesis and Analysis

The analysis of this phenomenon shows that the rapists are not doing this to satisfy some kind of sexual desire, but simply **to destroy the woman**. This is demonstrated by the following facts:

- If a woman is raped by men one after another, it doubles her chances of being contaminated by sexually transmitted diseases;
- Mutilations after rape open the skin, and she easily becomes contaminated by HIV;
- The systematic raping of women without regard to age - women 3 to women 80 years old - proves that the will to destroy the woman and her community is accomplished by infecting the woman who is the reservoir;
- The systematic destruction of the genital apparatus of the woman by infections, guns, knives, or abnormal deliveries demonstrates there is no sexual interest in the woman (otherwise she would have been protected), but rather the purpose is to destroy her reproductive organs to make her, her descendants, and the community disappear;
- Transmission of Chlamydia destroys the internal feminine genital apparatus and the woman becomes sterile.

This desire to destroy pertains not only to the woman but to her whole family because:

- When a woman is raped in front of her children, she definitely becomes traumatized. Will her children who witnessed this and could do nothing, hearing the cries of desperation of their mother, be normal or abnormal? Will they or will they not be capable of respecting their mother?
- Mothers are dear to all children; I think that these children will have witnessed a scene that will leave marks on them for a long time.
- Men who witness the rape of their wives without being able to defend them, even if they live, develop guilt complexes, become afraid, and characteristically, they tell me that they become impotent. This turns into low self-esteem. They tend to leave the family to take refuge in a place where no one knows them.
- For the family and especially the children, it is a terrible thing to have a humiliated mother and a humiliated father who left them. Therefore, the cell of the community is totally destroyed.

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This desire to destroy not only has an impact on the woman and the family, but also on the community because:

When the woman is destroyed, there is no possibility of a renewal of the community (the mechanism of renewal is broken);

In normal warfare, the men die at the front, but often the women reproduce children with some sick old men still alive. But the contrary is not true. When the uterus is destroyed, there is no possibility of reproducing. In the case of our species, when one destroys the genital apparatus, the men become useless, because they cannot reproduce children with sick women or women whose genital apparatus are destroyed.

10 healthy men can produce 1000 children if there are 1000 women. But 10 healthy women with 1000 healthy men can only produce 10 children under the same conditions.

This analysis shows that man has been able to invent a horrible strategy of war which produces the same effect as a normal war (that is assassination, loss of property, occupation of land, internal displacements, and refugees with all the miseries that go with that) but worse yet, has an effect on the health of those concerned, with indelible marks that they will carry everywhere during their life span.

This situation is so much more serious because it does not concern ten thousand women, but rather several hundred thousand women.

I would like to take this opportunity to send out a cry of alarm in favor of these women on our planet who are not treated as well as men are, and who, most of their lives, are always in danger because of bad treatment or lack of treatment after being raped. Their social and economic reintegration in society and their compensation should not be neglected.

I am asking the national Congolese community to invest thoroughly in putting an end to this crisis, similar to no other, that is going on in Eastern DR Congo by using political, judicial, and whatever other means to isolate the authors of these crimes and stop them from committing any more crimes.

I am asking the International Community to make rational use of MONUC, the United Nations forces in the Congo, to protect the civilian population and especially women, which is part of their mandate, and yet this situation continues to this day.

I am asking the American government to use its influence on the governments of the countries of the Great Lake Region to stop this practice of rape being used as a weapon of war and to help stop the leaders of these horrible crimes, who are known to everyone; where they are staying is no secret, and their acts are known to everyone.

To complete my testimony, I am annexing 3 individual testimonies.

Testimony n° 01

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- **My name is Madame Z, I am 26 years old, mother of 2 children and from Kaniola.**

On the night of December 15, 2005, at 11 p.m., some people speaking a foreign language broke my door down and came into my house. They had arms and machetes. Two of these men forced me to show where my husband was hidden. They tied him, and he looked on helplessly while the two intruders raped me.

They took all the members of my family and brought us in the forest. Eight of us walked through the forest for two days. In the middle of the forest they asked my older brother and my husband to sleep with my sisters. My brother, my husband, and my sisters refused and were all killed. I became a sexual slave in the forest. I had to serve each intruder sexually for a week.

They used me sexually and did to me whatever it pleased them to do. My horror lasted until the end of March 2006 when I escaped. Back in my village, my in-laws rejected me saying that I was the cause of the death of their husband and brothers. As I have no father or mother, I didn't know where to go. Some good people in the village who knew that at Panzi Hospital there was free treatment for raped women took me to a local association who referred me to Panzi. I ask that justice be done and that those people leave the forest in our country and go back to their own country.

Testimony° 02

- **My name is Madame X and I am 47 years old.**

On the night of August 24, 2007, while we were sleeping, 4 intruders speaking another language, and probably from Kahuzi Biega Park, broke down the door of the house. They tied up my husband, stole everything in the house, and demanded money. Two of them raped me and the two others raped my 13 year old daughter and took her into the forest. When they first raped me, the second took a piece of wood wrapped in a piece of clothing and began to clean my private parts. In putting the piece of wood deeply in me, he wounded my bladder and my private parts. The next morning, the village people who had not run away took me to the dispensary. Two days later, a medical team from Panzi found me at the dispensary and took me to the hospital. I was treated and am now better, but I am afraid to return home because the intruders are still in the forest.

Testimony n° 03

- **My name is Madame Y, I am married, mother of 4 children, am 30 years old and come from Lubarika**

On March 8, 2008 at 10 a.m., an armed man dressed in military clothing and speaking Kinyarwanda surprised me in a field where I was planting. I wanted to run away, but he pointed his gun on me and threw me by force on the ground and put his hand my mouth fearing I would yell out. He put the mouth of the gun deep in my vagina and I became traumatized. I also realized that, after having the gun in my genital apparatus, I couldn't hold my urine, and it hurt a lot when I urinated.

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The neighbor in the field helped me to get back to the village, and as I was bleeding a lot from the vagina, I went to the health center where they sewed me before transferring me to Panzi Hospital. I spent 3 weeks at the hospital. They repaired my urethra, which had been destroyed. Today I am cured, and I am preparing to go back home, but fear that my husband will reject me. I would like the hospital to accompany me home for family counseling in order to be reconciled with my husband.

These three testimonies represent the daily lives of these women in their homes, in the fields, coming and going wherever they are. We did not want to present more horrible testimonies to avoid emotional effects, but we have more than 10,000 indescribable testimonies.

Members of the Subcommittee, the eyes of these women are from now riveted on you. Their eyes will not leave you until you have actively taken steps to alleviate their suffering.

Thank you

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Psychosocial Treatment of Women Victims of Sexual Violence at Dorcas House at Panzi Hospital

The treatment is given on several levels:

1) The psychological level: the psychological treatment is done in two ways: listening to victims and psychological follow-up. By listening to the victim, the social worker tries to detect the degree of trauma. In many cases, the victims want to be reassured that they are not contaminated by an incurable or sexually transmitted disease. If the victim is found to be in good health, her second concern is her social and economic reintegration in the community. She tries to empower herself and reintegrate into society.

For certain victims, it seems difficult to foresee total rehabilitation when one listens to their stories. Following are some examples of cases which we tried to treat and assist:

Mapendo Balagazi is 21 years old and has a one-year old daughter Anne-Marie. She witnessed a horrible spectacle – her husband's head was cut off in front of her in their house in Kaniola, and then he was castrated by the Interhamwe. They forced her to carry the bag containing the bleeding head of her husband into the forest where she was first raped by eight soldiers. After that, she had to cook the heads of their victims including her husband's as a meal for the Interhamwe. She does not admit to having swallowed the flesh, but she said that her friends fainted after swallowing pieces of human flesh. After three months, she escaped from the forest with the help of the Congolese army and the Red Cross. This is only one case among so many others. This woman suffers from serious mental and physical depression, including permanent anguish, phobia, loss of memory, and suicidal tendencies.

Emiliane Asemeke, who is 13 years old and from Shabunda, was returning from school at around 1 pm with three other teenagers (13 - 14 years of age). The Interhamwe soldiers met them and took them into the forest where they walked for three days. Emiliane was raped by five soldiers one by one. One of them took all her clothes, and the soldiers tore up her school books. She decided to escape after three weeks in captivity. She suffers from guilt feelings. At 13, she is a mother, the result of collective rapes. At first, she didn't want the child, and did not understand anything about being a mother. Thanks to the assistance of the nurse at Dorcas house, the child survived. She begged the girl to nurse her baby and take care of it, but had to feed him for her at the beginning with a bottle. Today the baby is living, after being hospitalized three times. The baby is gaining weight, and Emiliane has started to smile again. She has agreed to attend workshops at Dorcas House. She comes to get medicine at Panzi Hospital where the child is monitored by the hospital pediatrician.

We have many similar cases, and we try to make every effort to listen to them and assist them to end their pain and become normal again.

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2) The social and economic reintegration level: it should be pointed out that all the women who come for treatment at Panzi Hospital do not live in the city of Bukavu. The majority of these women return to their respective villages, and there are quite a number of women who are seriously traumatized and who do not wish to continue to be helped. The hospital does all it can to assist local associations that treat and assist these victims in the long process of social and economic reintegration.

3) The emotional level: the victims need to be liked. They want to be reassured that everyone does not dislike them as their family members do. Gradually, certain members of their family decide to visit them at the hospital, and when they see that there are other women with the same problems receiving care, it makes them think again and change their attitude towards their relative. Certain husbands come to visit their wives and then go back in hiding. These husbands would like to live with their wives again, but are afraid of what others will say. A woman begged us one day to send a letter to her husband to reassure him that her HIV test was negative. She wanted to live with him again as a married couple. By asking her to remain in Bukavu and live alone, this meant to her that a woman has no status in society. She feels that nobody respects her, and the fact that she was raped is a terrible mark on her. However, she said that her husband promised to take her back again if she were not HIV positive. This woman left the hospital to find her husband, but we do not know if they are presently living together. The total destabilization of the community leads to its total destruction.

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1. Testimony of Mme. Mapendo, 26 years old, mother of 2 children from Kaniola-Luya village. She was abducted and taken into the forest by her torturers from December 15, 2005 to the end of March 2006

Mapendo was married and lived with her husband, Mr. Bisimwa. The Interhamwe frequently came into their village at night to attack, loot, rape, and abduct women, so Mapendo and her family no longer slept at home. They slept in the banana leaves and in the fields a little farther away from the village. At that time, the intruders weren't coming there any more. Then on December 15, 2005, the family decided to sleep at home because the children had begun coughing from sleeping outside in the cold.

That night, Mapendo's nightmare began. At around 11 pm, they heard men ordering them to open the door. They broke down the door and entered with big lamps, with guns, machetes, and knives. There were ten of them and two looked at Mapendo and asked where her husband was. He came out of hiding trembling. They asked for dollars, but Mapendo and her husband didn't have dollars. She was grabbed and thrown on the floor. Two men raped her in front of her husband who was already tied up, while the other intruders took the 2 cows and 3 goats from the house. Mapendo and her husband were tied up and taken into the forest. While they were walking through their village, the intruders chased after other victims. The little sister of Mapendo's husband, who was married, was also taken away, as well as the oldest brother, the little brother, and the little sister of Mapendo while the dead bodies of their father and mother were left lying on the ground in their house. They were killed because they asked that the assassins leave 1 cow for them from the 6 cows that they took.

Eight people were tied up and taken into the forest on a very long trip which took 2 days. In the middle of the forest, things became more dramatic: the assassins asked Mapendo to lie down; they demanded that the oldest brother of Mapendo and her husband Mr. Bisimwa have intercourse with her in front of the others. When they refused, they were assassinated (their limbs were hacked apart) in front of the 6 other people looking on including Mapendo. They raped Mapendo again, and then they all continued their trip until they came to their camp in the forest.

Once in the forest, the assassins each took turns making Mapendo their sex slave for one week. Her sister-in-law and her little sister always looked sad, and were assassinated because of this, for the men said: if they escape, they will bring their Congolese brothers who will come to attack us. They didn't kill Mapendo because she didn't look sad. So Mapendo remained the sole woman with ten men who took their turn raping her. Each week Mapendo changed sex partners. She was watched constantly as the men feared she would escape. Mapendo realized she was pregnant at the beginning of February 2006. As the men saw that she had gotten used to them, they gave her a little freedom. She could go to fetch water a few kilometers away. She pretended that she was going to the brook, but decided that she was going to escape and return home to her village. As she didn't know which direction to take, she got lost in the forest for a week, ate leaves, and drank dirty water when she could find it. Finally, on the seventh day, she came to some fields where she met two older men who were cutting trees to make firewood. They

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nearly ran away because she was almost naked; she cried out to them that she wasn't crazy, and they approached her. They were in a village very far away from Mapendo's village, towards Kalonge. The two men brought her to the village and gave her a loincloth to put on and food and showed her the route she should take from their village to return to Kaniola-Luya. So Mapendo continued on her route until the came to her village and stayed with her father-in-law and mother-in-law with their two children. When her in-laws saw her, they blamed her for the cause of the death of their son and daughter. As Mapendo didn't have her parents or her brother any more, she was obliged to stay with them, but they didn't get along, and they finally chased her away. Some good people took her in, and other people who knew about the treatment at Panzi Hospital for women like Mapendo, showed her a local association which brought her to Panzi.

Her condition when admitted to Panzi hospital

Mapendo was admitted to the hospital when she was three months pregnant, very thin and pale, unfriendly, wearing one loincloth with a torn T-shirt, very depressed, and accompanied by her two children, both suffering from malnutrition.

After two days, we chose her from among ten survivors picked to participate in a counseling group. Then she told us her story.

Presently, Mapendo lives with her three children (the last child was born as a result of rape) without a husband in her village and works in the fields. She makes her living working in the fields, and at the end of the day, she is paid and uses the money to feed her children. She is able to continue her life after the treatment she received at Panzi Hospital.

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2. Testimony of a 12 month old baby

In January 2007, Panzi Hospital received a 12 month old baby girl. The parents of the child live in the Essence neighborhood in Ibanda Commune. The mother works at the market selling fresh sardines. The mother usually left her child with her neighbor when she went to work, but as the neighbor wasn't there, she took her child to her older sister in Kadutu.

Around 6 pm, the mother came back to get her child. She found the child on the back of her sister's male servant, Mr. Kulimushi. The child was sleeping. The mother gave Kulimushi a bag of fresh fish for having helped keep the child that day.

When the woman arrived home, her first gesture was to wake the child in order to put on a new diaper for she supposed that her diaper was wet. The moment the mother touched the child's thighs, the child began to cry. When the mother tried to undress the child, she saw that the diaper was wet with blood towards the child's anus but when she looked at the child's vagina, she saw more blood. She cried out, and the neighbors came running and quickly took the child to the nearest dispensary where it was confirmed that the child had been raped or the victim of sexual violence. The father arrived drunk towards 8 pm, and when he heard the news, he took a knife after his wife blaming her, saying that she was irresponsible to take his child to her family where they would hurt a 12 month old baby. The neighbors intervened to stop him.

Towards 5 am in the morning, the father took his wife and child to Kadutu, and they questioned Kulimushi intensely. The servant admitted that he had raped the baby. Later, he was taken to court and put in prison after the doctor's report at Panzi Hospital confirmed that the child had been raped.

State of the child when admitted to the hospital

This 12 month old baby cried and cried. When her mother tried to nurse her, the child was unreceptive, and all day, the child would not eat. The mother was very depressed, crying and saying that she was a living dead woman. She would not sit on a chair, but lay on the ground in the doctor's office. But, today, the child is well and family harmony is restored.

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3. Testimony of Maman Faida M'Ciromo, 67 years old living at Mulamba-Ngweshe-Walungu

On February 25, 2008, Panzi Hospital admitted a woman who had been raped in the fields in 2007. She was hoeing; suddenly, in the forest she saw seven men dressed in military uniforms holding guns who suddenly ran into the fields. They cried out: "Put your hoe down" while pointing the gun at her. She began to tremble while they spoke in Kinyawrwanda. One of them asked for money. She replied: "I am a widow; where can I get dollars?" When they heard this, the attackers became angry. They said: "As you have no money, you must become our wife; we are going to rape you." She replied: "My children, I am only a widow and I am the age of your mothers, and I am your mother."

One of the seven attackers cried out: "And you, we are not discussing anything with you." Then he ran and kicked her, and she fell down. And so they began to rape her, one after the other. One lay down on her, the second raped her through the anus; the third made her open her mouth and put his penis in her mouth until he ejaculated in her mouth. When he wanted to put his semen in her mouth, he forced her by shaking her mouth to swallow the liquid. The fourth, fifth, and sixth raped her in the vagina, and they continued until all seven had raped her, leaving her half dead on the ground.

The woman stayed there until evening when she heard noises from some older men who were passing on the road which leads to the village. She cried out to them for help. They came and helped her, carrying her on their backs until they got to the health center where she was treated. Until this day, she has not forgotten that awful experience.

The state she was in when admitted to the hospital

The woman was very quiet and didn't want to say that she was raped. She only complained of nausea, digestive trouble, and especially constipation, gastritis and asthenia. However, on the second day she explained what really happened to her. After two weeks of treatment at the hospital, she was back to normal. This woman is now well and living at Ngweshe as a widow.

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STATEMENT FOR THE RECORD
FROM PHYSICIANS FOR HUMAN RIGHTS

U.S. Senate Committee on the Judiciary,
Human Rights and the Law Subcommittee

Senator Richard J. Durbin, Illinois,
Chairman of the Subcommittee, Presiding

"Rape as a Weapon of War:
Accountability for Sexual Violence in Conflict"

April 1, 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 a national organization that mobilizes health professionals to advance health, dignity, and justice and that promotes 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

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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, under-reporting by survivors due to fear of public knowledge or reprisals, predominance of male interviewers and prosecutors, excusive 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.

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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.

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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

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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

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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.

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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,

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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.

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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

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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 gathered 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

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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:

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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
    - 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).
    - 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).

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- o 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.

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By Daniel Rothenberg, Managing Director of International Projects with the assistance of Elizabeth Drew, Project Coordinator, International Human Rights Law Institute, DePaul University College of Law.

Submitted for the Senate Committee on the Judiciary Subcommittee on Human Rights and the Law Hearing: "Rape as a Weapon of War: Accountability for Sexual Violence in Conflict"

April 1, 2008

Thank you Chairman Durbin, Ranking Member Coburn, and other distinguished members of this Subcommittee for allowing us to submit this statement today on behalf of the Iraq History Project, a research and advocacy initiative of the International Human Rights Law Institute (IHRLI) of the DePaul University College of Law. We commend the Subcommittee for addressing such a critical issue.

Sexual violence remains one of the universal features of armed conflicts around the world. Due in part to courageous women's advocates and hearings such as this one, progress has been made in acknowledging these crimes in our public discourse and before our international legal systems. Rape has been codified as a war crime and as torture by the Rome Statute of the International Criminal Court. Ad hoc international tribunals for Rwanda and the former Yugoslavia have convicted defendants accused of rape and other forms of sexual violence, and identified violence against women as a deliberate tactic of ethnic cleansing and genocide. Despite these advances, however, sexual violence continues to occur in conflict zones around the world.

Acute sexual violence in wartime is possible only because widespread discrimination and violence against women goes unchallenged in times of peace. Women in countries around the world are often denied their basic rights to equality before the law, freedom of movement and expression, and equal access to healthcare, education and work. In most countries in the world, rape goes unreported out of shame or fear that the state will prosecute the victim for having sex out of wedlock. When states fail to address threats to women's basic human rights, or indeed, are responsible for violating them, a dangerous precedent is set.

In many oppressive regimes, such as Saddam Hussein's Iraq, sexual violence was a deliberate tactic of control and repression, designed to terrorize and shame individual women and men, families and entire communities.

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The use of such tactics generally increase during armed conflict and are enabled by the culture of impunity that characterizes authoritarian regimes dependent on systematic abuse as a tool of power.

Despite widespread sexual violence during the Ba'athist regime and since 2003, there has been very limited coverage of these issues. IHRLI's Iraq History Project (IHP) aims to change that.

The Iraq History Project (IHP) gathers and analyzes personal narratives from victims, their families, witnesses, perpetrators, and others regarding human rights violations committed during Saddam Hussein's regime (1968-2003). The IHP has collected over 7,000 testimonies accounting for around 100,000 pages of original material. Interviews were conducted in every governorate in Iraq with a diverse representation of Iraqi ethnic/religious groups. The IHP is one of the largest human rights documentation programs in the world and the most comprehensive such project in Iraq.

The IHP has gathered over 2,000 interviews with women, including over 935 testimonies of rape. This material was gathered in a social and cultural context in which violence against women is not generally discussed. IHRLI was able to conduct this research by training skilled Iraqi women as professional human rights investigators and by linking interviewers with those they interview, so that Shi'a women members of the IHP staff interviewed Sh'ia women victims, etc.

While gathering the material in 2006 and 2007, the IHP kept a low profile in Iraq for security reasons. After the interviewing process was completed in mid-2007, the IHP began presenting material widely to the Iraqi people. The IHP ran two 3-month long weekly radio programs (one in Arabic and one in Kurdish) that broadcast individual testimonies to a projected audience of over 2 million. Many of these programs discussed violence against women and one focused specifically on the use of rape as a tool of terror. The radio programs are available on CDs and can be downloaded from the IHP Arabic, English and Kurdish website: www.iqhp.org. The IHP published 12,500 newspaper inserts and printed and distributed thousands of copies of *Testimonies*, a book presenting first person narratives of past abuse printed in all three languages.

In 2007, the IHRLI/DePaul's IHP was named as one of the United States Department of State's "program success stories" in Iraq (see: http://www.state.gov/g/drl/rls/c23040.htm).

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The IHP seeks to establish a victim-centered historical record of past repression that memorializes the voices of ordinary Iraqis who suffered terribly under decades of repression. The project is important for its documentary value since, to date, there are no other large-scale initiatives of this type. The IHP has focused special attention on the suffering of Iraqi women and the use of rape and sexual violence as a tool of state repression.

The IHP's work can be passed on to a future Iraqi truth commission, an issue that has been considered by key players in Iraq (UNAMI, CPA, the Ministry of Human Rights, etc.). The IHP can also be used to support various transitional justice policies, such as reparations, memorials, and educational reform.

The IHP is important for any discussion of national reconciliation in Iraq. The project work can aid in countering attempts to deny or minimize past atrocities and encourage an open acknowledgment of responsibility. Above all, the IHP may contribute to an understanding within the country that the Iraqi people as a whole were victims of the prior regime. This is essential for a more accurate engagement with the past and for the development of a unifying national narrative.

IHP staff are currently analyzing the testimonies stored in the database. Preliminary conclusions demonstrate that the Ba'athist regime used severe violence against women as a tool of terror. This policy can be seen in the systematic practice of raping women who were members of groups targeted for political reasons (such as Kurds during the Anfal campaign, and Sh'ia after the 1991 Uprising). In addition, the female relatives of suspected opposition leaders were often raped as a means of extracting information, punishing the family and sowing fear among a potential opposition.

Rape and sexual violence were key components of an organized state policy in Iraq that used cruelty, humiliation, and the brutal exercise of power and domination to serve the ends of authoritarian rule.

The following testimonies of violence against women taken from the IHP database speak for themselves.

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SELECTED TESTIMONIES FROM WOMEN
IRAQ HISTORY PROJECT

WIDAD

When we look at life, we discover how cruel it is.

I know this because I lost the most precious things.

When I was younger, I was happy. Then, after they took my father away, I lost my love for life. They deprived our family of the force that held us together, and afterwards, only tragedy remained—and injustice, oppression, and tyranny.

I was once a young girl, proud of my honor and virtue. I lived with my father, who was a guard at the petroleum company, my mother, four sisters, and a brother who had been crippled by polio.

My father was an honest, God-fearing man who brought us up well. He never made us feel that we were a burden for being girls. He cared for us and provided for all our needs. My mother was a kind lady who showered us with compassion and tenderness.

My father had friends who were like him in their honesty and pious nature. They used to spend the afternoons in a cafe talking.

One day, he returned home to tell me about a conversation with our neighbor, who was a member of the local Ba'ath Party Section.

The man said, "Why do you pious bunch come together everyday at this cafe? Are you conspiring against the Ba'ath Party?"

"Why would say that, son?" said my father, "We are your father's age. Why do you speak this way to us?"

The neighbor laughed and went away.

The next day, November 20, 1992, my father went to work and never returned.

When he didn't come home, my mother was worried. This had never happened before. My mother went to my cousin's house and told him about my father. Then, my cousin went to the Petroleum Department in Misan. There was nobody there except the guards at the gate.

"We don't know anything about him," they said, "Some men came in a white Land Cruiser and took him away."

My cousin came back and told us about what he heard from the guards. My mother went crazy. She started beating her chest and screaming. Then, all of us girls started crying and screaming. We thought, "What can we do without our father?"

The next morning, my cousin took my mother and went to ask about my father. They went to the Amara Security Directorate; nobody there told them

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anything. They went to Istikhbarat; nobody there said a word. They went to all the police stations in the area and returned at night without any information on what happened to my father.

I had been the best student in my secondary school and, at the time, I was studying at the Technical Institute. I left my studies for two weeks to find out what happened to my father. I went to all the Security Directorate offices and police stations in Baghdad and Basra. No one would tell us what happened to my father. We were devastated.

Slowly, we began to accept the situation. My mother started a new life. She would take milk from the countryside and make yogurt, cheese, and cream, and sell it in the market to provide for the family and help us finish school. Some of our relatives gave us money to buy medicine for my sick brother. Some neighbors also helped us. This continued for about a year.

Then, my mother fell ill and became paralyzed. From then on, our situation grew worse. Our only hope was for me to get a good job after graduating from the Technical Institute.

One day, while I was at school, Zaina approached me. She was the daughter of a Ba'ath Party Section member and always bragged about her father's position. She had a car and used to drive to and from the Institute. She wore expensive clothes, gold rings on her fingers, and gold chains around her neck.

Zaina often tried to be friends with me, but I avoided her because of what happened to my father. Still, that day, I was very upset.

"What's wrong, Widad?"

"Nothing."

"How can you say 'nothing'? You are such a bright student and now you're not paying attention in class. Talk to me. Maybe you'll feel better."

I don't know what happened to me then. I started crying and speaking about my father who went missing and about my mother, my brother, and our difficult life. I wondered why all of this was happening. I never understood why my poor father was taken away.

"Who took your father?" she asked.

"The Ba'athists who have no fear of God."

I don't know why I said those words.

She looked at me in anger and said, "So, you hate the Party and the State?"

"No, I don't hate them. But why did they choose us out of all people?"

She left and went out of the hall.

Two days later, I was at a lecture at the Technical Institute when an officer and three men appeared. They came into the lecture hall.

The professor asked, "How can we help you?"

"It's none of your business. We've come for Widad. We have a warrant for her arrest."

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When I heard his words, I began shaking with fear.

The other students looked at me, half in accusation and half in empathy. The officer grabbed me and they took me with them. They forced me into a white Land Cruiser. They put me in the middle row, with a man on my left and another on my right. The officer sat in the front seat next to the driver.

When we reached the suspension bridge, the officer ordered the men to lower my head. After five minutes, the car stopped. They took me out of the car and into a building. I found myself inside the General Security Directorate in Misan.

Two guards looked at me.

"She's a great find!"

At the time, I didn't know what they meant.

They took me to a small, windowless room. They locked the door and left me alone. At the time, I felt terrible. I didn't know why I was there. I worried about what would happen to my poor handicapped mother and my family. I started crying. What had I done to be thrown in this cell, locked up, facing these four walls?

Several hours later, a man came in. He handcuffed me and blindfolded my eyes. He walked me somewhere. He took off the blindfold and released my hands. I found myself in a square room with a bed, a cable, a stick, and a rope.

I was so afraid. I was wondering what they were going to do to me?

Moments later, the officer who arrested me entered the room. He approached me slowly.

"Sweetie," he said, "I think that God chose the most beautiful features and gave them to you. I hope you won't make us both tired and that you'll confess easily."

"Confess to what?"

"Two days ago when you were sitting with another student, you cursed the President."

"Believe me, I didn't do that," I said, "I was worried about life, my sick mother, and my father who disappeared. I didn't know what to do. I only said to Zaina, 'Why did the Ba'athists choose us?' That's what I said."

"So, you cursed the Ba'ath Party?"

"I didn't curse anyone. I was sad and sick with worry for my family."

"You are a liar. You criticized the Ba'ath Party. This makes us think you're part of an organization inside the Technical Institute."

"No, I'm a peaceful person. I have no political affiliations. I beg you, let me go. If my mother knew about this, she would die."

"Let's not worry about your mother," he said. "Here, you are alone."

He came close to me in a strange manner.

His eyes were red.

He pushed me to the bed and started to take off his clothes.

I screamed, "What are you doing, you animal?!"

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He stood up. He spit in my face and slapped me. "Look who's talking? Widad, the whore!"

He attacked me like a monster. I was screaming and fighting with my hands, but he was like a wild animal. He was strong. It was impossible for me to stop him. He stripped off my clothes. I was crying and begging him to leave. I was screaming as loud as I could.

I was unable to stop him and his cruel desires.

Then, he beat me with a cable and I lost consciousness.

I woke up when he put some smelling salt under my nose. When I came to, I saw that I was naked. I began to scream. I beat myself. I broke down like a crazy person.

He was so cold. He sat there as if he had done nothing. He looked at me.

"Put your clothes back on, bitch! You insulted the President and the Party. This is what you deserve!"

After I put my clothes on, he opened the door and went out. Then, the same man who brought me to the room came to take me back to my cell.

The same thing happened every night for four months.

I began to wither, day after day. My health went from bad to worse. My nerves broke down. The officer used to give me pills so I could sleep at night and be more relaxed for him.

One night, when they brought me to the room, the officer was there with several other men.

"This is the pretty girl I told you about!" he said.

I began to scream. He tied a cloth around my mouth. He pointed a gun to my head and ordered me to take off my clothes.

I refused. He pressed the gun closer.

I followed his orders and took off my clothes. Then, he removed the cloth covering my mouth.

I shouted at them, crying, "Don't you have any honor? Don't you have sisters or wives? What would you do if one of them faced what's happening to me now?!"

"Our sisters and wives are not like you," said one of them. "You're a slut and a whore!"

The officer said to one of the men, "Enjoy her! She's yours!"

Then, everybody went out and the man stayed in the cell. He took what he wanted.

Then, the second came in.

Then, a third.

I fainted. I couldn't bear the situation.

What had I done to be treated this way? What was my crime?

The officer who first assaulted me ordered a man to whip me with a cable. The man hit me all over my body. I lost consciousness. When I came to, I was back in my cell.

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A week later, a man came and took me to another room. There, I found an officer sitting behind his desk, while the officer who assaulted me each day was beside him in a chair. He acted as if he'd never seen me.

The officer behind the desk said, "After we investigated the charges against you regarding the allegations that you cursed the President Leader, we have found you to be innocent. You will now be freed. You will leave here. However, you will work as a spy and tell us everything that is happening in your neighborhood."

I didn't say a word. I would have done anything to get out of that dirty place.

He made me sign a paper.

Then, I was taken home in a white Land Cruiser, just like the one that took me to prison.

When I returned home, I found more sorrow. My mother had died. My brother was near death because he wasn't receiving his medications. My sisters had left school.

I couldn't stand to see what had happened to my family and, one night, we ran away to live with my maternal aunt in Samawa. She was an old woman, a widow, who had a married son and a daughter in school. She lived in a big two-story house and let us stay on the second floor.

I went to work in a clothing factory owned by one of my aunt's friends. I spent my salary caring for my sisters and buying my brother's medication. I transferred my sisters to schools in Samawa. One of them finished the Teachers Institute, the other entered secondary school, and the third entered college.

We thanked God for everything.

We lived there until the fall of the tyrant.

Then, I returned to our old house.

By then, I had lost my dignity. I continue to live in disgrace, after what happened to me.

Still, God avenged me. The father of the girl I knew from school was killed by unknown men. Then, their family's situation deteriorated. They left their home. Nobody knows where they went.

As for my father, we found his body in one of the mass graves.

What can I say? We have no power other than what God gives us. To God we belong and to Him shall we return.

I thank God for everything and hope no human being should ever suffer injustice. *Inshallah.*

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GULA

My husband was arrested after several people gave the security forces his name. Six months later, some Iraqi officers arrived at my brother-in-law's home. They knocked on the gate and asked for me. My sister told them I wasn't there. I heard the conversation and came out. At the time, I didn't know they had come to arrest me.

There were several Iraqi officers including a lieutenant named Kamal. He was a tall, dark, heavily built man with a gold tooth.

"Are you Karwan's wife?"

"Yes."

He grabbed my hand. My sister held me, but the lieutenant hit her. He pushed me out of the house towards a car parked in front of the gate. He wouldn't even let me put on shoes or take a jacket. Before entering the vehicle, I begged them to allow me to take my two-year old son.

"Shut up. You and your husband are traitors. Your son is better off without you!"

When Lieutenant Kamal said this, I grew angry and refused to get in the car. But, I was also filled with sadness and sorrow thinking of my husband and son. And I was worried because I was six months pregnant.

Then, they pushed me inside the car. Lieutenant Kamal shoved my head against the window.

"You deserve to suffer because you work for the insurgents."

They took me to the Emergency Security Directorate located in the Chwarbakh quarter near the Sulaimaniya Stadium.

Before we left the car, they blindfolded me and handcuffed me to Lieutenant Kamal. We walked for several minutes. Then, they took off the blindfold and I found myself in large hall with black walls and many gray doors.

They brought a man to me. He fell onto the ground in the middle of the hall. His left leg looked broken and he had lost his right eye. It was very cold and he wore only black underpants. His arms and back had been burned.

I approached the body slowly. I stopped, and then walked a bit closer. I looked at him and didn't say a word. He was so disfigured.

I couldn't believe it was Karwan.

"He's alive," said Lieutenant Kamal.

I stood in that hall for five minutes in silence.

They took me outside the hall and up some stairs and put me in a dimly lit, windowless room. There were three people sitting behind a metal table. In the middle sat a judge, a white heavy man, balding with gray hair and no mustache. I was still handcuffed to Lieutenant Kamal.

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"My daughter, do not conceal the truth. Tell us everything," said the judge.

Then, they brought in two boys around fifteen years old. They had been beaten and their faces were swollen and bruised. They were our neighbors.

"We know her," they said, one after other, "We brought guns and leaflets to her home many times and hid them under loaves of bread."

They took the two boys out of the room. Then, the judge and the two other people left.

Lieutenant Kamal took off the handcuffs.

"Wait here."

Around ten minutes later, two heavy built men came into the room. They were dark skinned and athletic. They wore military clothes and spoke Kurdish with a Khanaqin accent. They brought over a chair and desk and set it next to mine. They raised my legs onto the chair. Then, they hit me with a metal pole. They hit me hard, over and over. They swore at me.

"You slut."

"You liar."

"You whore."

They beat me so long that I fainted and collapsed. I lost consciousness, but woke up when I felt a pain in my lower back. One of the soldiers was kicking me.

"She's just pretending to have fainted."

Pain swept through my body. I fainted again.

When I regained consciousness, I found myself in a military hospital. My right hand was handcuffed to the side of the bed. I was only slightly conscious. A female, Arab doctor was standing beside me. She stood up straight and had long black hair that fell over her shoulders. Lieutenant Kamal and a captain named Salam were there as well.

The doctor said, "You shouldn't beat people like that. Now, this woman may lose her baby and die because of a hemorrhage."

On the left of the bed there was a curtain. They drew it closed.

Later, a nurse came to me and asked in a low voice, "What's your name? Do you have a relative who's been detained? What's his name?"

I told her my name and told her that my husband, Karwan, had been arrested and jailed.

"Your husband asked about you. He's in one of the beds behind you. He's alive. I am going to tell him that you're alive too."

At that moment, I was so sad that I wished I was dead. It was simply too hard to accept that my husband was just behind me in the room and that we were separated by only a few curtains. We couldn't speak or see each other. It was painful to think of how my husband and I were suffering, deprived of tenderness and love.

Eventually, the doctor came and told me that I had recovered and would be discharged.

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"Your baby is alive."

The doctor left me and I was alone. Late at night, Lieutenant Kamal and Captain Salam woke me up. They took me outside the hospital barefoot, in a red dress. They transferred me back to the Emergency Security Directorate. They brought me inside, opened a door and pushed me into a big hall with rooms full of prisoners. In the hall, there was a man attached by handcuffs to a metal pipe set in the ground. They released the man and put me in his place, fastening me to the pipe.

After a while, they brought me some bread and a small bowl of yogurt.

The rooms were full of men. They forced sixty or seventy prisoners into a single room. No one was allowed to speak.

I think I was the only woman in the jail.

The officer in charge was Lieutenant Abbass. He ordered the prisoners around, telling them when to sleep, wake up, sit, and stand. When it was night he told the prisoners, "Sleep and don't move." If someone moved, he would hit him with a pipe or a wire cable. The prisoners could use the bathroom only once a day. Lieutenant Abbass would blow a whistle and all the prisoners from one of the cells would rush to the bathroom. After two or three minutes, he blew the whistle a second time and the prisoners would have to return to their cells. If someone was late entering the cell, he was beaten.

The next day, after midnight they took me to a small windowless room. The door to the room was metal and above it there was a red light. There was a metal table opposite a desk. There was a hammer, pliers, scissors, and some other tools on the table. On the wall, there was a mirror.

I was scared.

Then, Lieutenant Kamal and Captain Salam came into the room with a big, black dog.

"It's better for you to confess. Otherwise we'll beat you."

"What do you do for the insurgents?"

"What does Karwan do for them?"

"It is better that you tell us now so you can be released."

"I don't know anything about the insurgents. I don't know anything about my husband."

Lieutenant Kamal released the dog and spoke to him, giving him instructions with his hands. The dog came up behind me and put his front legs on my shoulder and started to lick my neck, my hair, and my ears. I was disgusted and scared. He spoke to the dog again. The dog came to my front and started to lick my face, nose, mouth, and breasts. He said something else and the dog urinated on me.

I said nothing. I didn't move. I was covered in dog urine.

They were both very angry.

"What are you?" asked Captain Salam. "Are you a pig?"

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They looked at me for a while. Then, they left with the dog and the two dark boys from Khanaqin who had beaten me came into the room. Each one carried a wire cable.

They started to beat me. It was so painful that I fainted.

When I regained consciousness, I found myself back in the hospital. I saw the same doctor. I was handcuffed to the bed and there were two guards watching over me.

The doctor defended me. I will never forget this. She was angry with two guards and said, "I don't conduct medical examinations in this way. Remove the handcuffs and go outside."

The guards took off the handcuffs and left the room. The doctor asked me my name. I told her and then she told me her name. She asked me why I was arrested and wrote my name on a piece of paper which she put it in her pocket. After the examination, she asked to see the officer in charge.

Later an officer named Major Hamid came into my room.

The doctor said, "She's been tortured very badly. You shouldn't beat people like that. Also, patients in a hospital should not be handcuffed to the bed."

"These people are Peshmurga. It is better to let them all die."

"She's a woman who has no power to control her husband. Perhaps her husband made her get involved in politics. I'm going to move her to the delivery hall in the maternity hospital where she'll stay for three days without handcuffs."

"If you will vouch for her, I will honor your request."

The doctor supported me under the condition that if I escaped, she would be arrested. They gave me some injections and I stayed three nights in the hospital.

Then, Major Hamid and two guards came to hospital. They blindfolded me with a white cloth and then took me back to the Emergency Security Directorate. Once again, they put me in the big hall, but this time I wasn't handcuffed to the pipe.

After a while, a guard named Abdulla came close to me and whispered, "Your husband is here. He's in room number nine. If you want to see him, ask permission to go to the bathroom. Room number nine is next to the bathroom."

A bit later, I asked another guard to let me use the bathroom. He wanted to escort me, but I asked to go alone. I wanted to see my husband. They let me go and I walked down the hall. I looked through a small window as I passed room number nine. I saw Karwan. He was black and blue. We gestured to each other. He asked about me and the baby.

"We are fine," I whispered.

We spoke softly for a few minutes. Then, I returned to the hall and sat down. I was in that cold hall for four nights without being interrogated.

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Around midnight one evening they took me to the first floor and put me in a torture room. There was a girl in the room. They were beating her. Her clothes were torn. Her face was swollen. She had collapsed on the ground. They made me stand before the unconscious woman for a long time.

Then they took me to a room with a television, some small tables, chairs, and a new sofa. Major Hamid was sitting in the room. They made me sit on the sofa.

Major Hamid said, "Although she's stubborn, give her a Pepsi. Maybe we should consider what the doctor said about the baby."

They brought me Pepsi and some candy.

Major Hamid started interrogating me. He asked me where we hid documents.

"I don't know anything except what I already told you."

I sat in the room for half an hour without saying another word.

Then, they put me in a car. I don't know where they took me, but in the end, we were at the back gate of another office of the Security Directorate. The place looked like a gas station. There were groups of guards and soldiers.

As I stood there, the men laughed at me.

They made me go into a building. It was dark and I couldn't see inside. They made me stand in a certain place and then they pushed me into a pit. I slipped down maybe two meters. I grabbed onto something which stopped my fall. I was scared because I had no idea of how far I might fall.

I was crying and screaming, "Torture me, kill me, but take me someplace where I can at least see what's happening!"

I heard noises and shouting from people at the bottom of the pit, but I couldn't see anything because it was so dark.

From the bottom, I heard a woman's voice, "Come, my sister. Come down. There are many of us down here."

Someone shined a light towards me. I could see the bottom and the ceiling, which was arched. Below, there were women, children, and old people all piled on top of each other. Their hair was tangled and dirty. The men's moustaches and beards were long. They looked like wild people. It seemed that they hadn't been outside for years. Two came close to me, and with the light, they helped me descend to the bottom. They took me through the crowd. It smelled terrible, like the smell of dead bodies or rotting fruit. I was barefoot and the ground was wet.

There were around fifty people in the room. I passed by them all slowly. Then, I was taken out of the room and brought upstairs. They opened the door and Captain Salam was sitting on a chair.

"Welcome. Sit down. How is your baby?"

"God is merciful," I said.

"God is merciful," he said.

He asked me the same questions as when I was first arrested.

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"Believe me," I said, "if I knew something, I would tell you."

"Take her away."

Two guards took me to a big hall. As they walked me to a cell, a prisoner named Kak Saman came up to me. He was a good man and asked me about my arrest. He looked sad. He gave me his coat because all my clothes were torn. He brought me a blanket and pillow.

"Your cell is very cold. Take these things."

"What about you?"

"It's not a problem. I'm a man."

I took what he gave me and went to my cell.

One day, the guards returned and took me back to Captain Salam. He was looking over some papers. They forced me to sit down. Again, he asked me the same questions.

"You know you're driving us crazy," he said, "Why are you making fun of us?" We ask you questions and you tell us nothing. It's time for you to talk."

"I've told you everything I know."

He started beating me very hard.

I began to cry. I couldn't hear very well. I was in so much pain.

"Take her back to the cell."

When I returned to the cell, I was aching and my ears hurt. I lay on my bed and started to cry. I was so worried. My head was aching. I was thinking of the baby inside me. I didn't know whether it was alive or dead. I missed my son.

They kept me in the cell for two more days and nights. Then, two women were brought to the cell. One of them was a young woman named Basoz who was imprisoned with her child. She had been arrested because of her husband. The second one was named Nazira and was arrested because of her son.

Basoz looked at me and said, "Oh my God! Do they hit every one in this way?"

They called the young women every day for questioning. Basoz was very scared. Her husband was a Peshmurga, but they hadn't found anything in her home to link her to the Peshmurga.

I told her, "During the investigation, just tell them, 'I have no control over my husband. He won't even listen to what I say.'"

They took the women off for questioning every day, but left me alone. I was crying for my relatives, for Karwan, and for my baby.

On Nawraz, the Kurdish New Year, Captain Salam came to the cell to say, "Tonight, you'll burn like a Nawraz fire! Your husband too. We are going to burn you here. Tonight, you'll both be killed."

"Don't you see that life in this prison is like being dead? Go ahead and kill me. For me, it would be better to be dead than to continue living like this."

An hour passed. No one came.

Then, Captain Salam came and gave me some bread and a cucumber, "You don't deserve this food, but come and eat."

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"I don't want it."

He threw the food down. I picked it up and threw it back at him. He returned and spit in my face.

"Dog."

"Bitch."

"Slut..."

I was tired of my life. By then I expected to be killed.

On the first day of Ramadan, I felt contractions. The guards told Captain Salam who called Major Hamid. They took me to maternity hospital. I delivered my baby that day. I named him Bandi.

Someone told my family that I was there. The doctor brought me to room where there was a sick woman from Halabja. When my relatives came to the hospital, they pretended to visit the other woman. I didn't speak with them, even when they looked at me because there were two guards sitting beside me. It was difficult and sad. I spent five days there.

Then, they took me back to prison. When my baby was a month and a half old, they said to me, "We're going to release you."

At the time, they said the same thing to Basoz and Nazira. I didn't believe them. They took us to the Sulaimaniya jail. They interrogated us again. There were maybe a hundred women and children in the cell. I sat near the door. It was dirty and you could see insects crawling over all the prisoners.

Again, we were transferred. I was put in a cell with seven other women, all Kurds. I was there for fifteen days. During that time I was never interrogated or tortured.

One day, I was called to the office of the Director. He was a large Arab.

"Do you want to go home?"

"Does anyone ever tire of their home?"

"If we release you, you will work for us?"

"No."

"Why do you work for Peshmurga?"

"I don't work for the Peshmurga. I've been suffering here for over a year."

"We don't want to torture you. We want to treat you as a sister." Then, he spoke to the guards, "Take her to room number eleven."

There were two security men in that room. They asked me to confess. Then, they started to hit me with a wire cable. They beat me so hard that I lost consciousness. When I woke up, I found myself back in the room with my son, Bandi. He was hungry and crying, but I had no milk for him.

Then, one day, the Director came to the room and gave Bandi a few dinars.

"Go," he said. And, I was released.

They put me in a taxi. I went to my aunt's home. When she saw me, she started to cry and shout. She hugged me. She couldn't say anything except "My Gula"! After that she took me to my father's new home. When my mother

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opened the front door, my aunt couldn't speak. She just pointed to me waiting in the taxi. My mother fainted.

Then, my father came out and yelled, "Gula has been released!" One of my sisters ran out and to the street and started shouting and dancing.

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BANAZ

We were a happy family and everyone was jealous of our good fortune. But, this happiness ended quickly. Our wonderful life together turned to misery because of Saddam. I was married in 1983 to a man named Karim. He was my cousin and was quiet, calm, and kind. He was from a rural village and I was from the city of Kirkuk. He was a farmer and I was well educated.

We moved to the village and had two daughters and a son. In 1988, the government informed us that we had to appear before the authorities within twenty-four hours. We all went to the main road. There were a lot of Iraqi soldiers there as well as Kurdish militia who worked for the government.

We waited for hours in the rain and cold. Our bodies were covered with mud.

Then, they put us in military vehicles.

The regime's agents told us, "The government has made a nice, new town for you. We are going to take you there. You will be much happier there than in your current village."

As the military vehicles were driving away, we realized the government agents had lied to us. They took us to the military base in Chamchamal and put us in a prison. There were people from other villages there as well. Then, they brought vehicles to take us to a big building in Tobzawa. Each family was taken to a table with a number of chairs. Iraqi officers were there with Kurdish translators asking everyone questions.

"Why did you flee?"

"How come you're not Ba'athists?"

"Will you work with the government?"

We told them, "We just want to live in peace."

They refused to accept our answers. An officer stood up and hit me and my husband. Our children started crying.

After the questioning, they took us outside.

My husband and I loved each other with all our hearts. We held hands. We loved our children. I hugged my son and held onto my baby daughter. My older daughter had one hand on her father's pants and the other on my dress.

The security agents pulled my husband to one side and me to the other side. We didn't want to be separated from each other. We tried to hold on to each other. They beat us and we fell to the ground.

I was screaming, "Why do you treat us like this? We are ready to be shot here together, to be burned together! Please don't pull us apart!"

I went down on my knees to kiss the feet of the government agent. At the time, I believed that my husband and I would always be together. The officer kicked me with his boot. I collapsed and fell unconscious. I had no idea it would be the last time we'd ever see each other.

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When I gained consciousness, I found myself in a room. I saw women hitting themselves. I saw my cousin crying. I heard the women talking about how they were separated from their children. Then, I realized I couldn't find my own children, except for my baby who was only eight months old. I started crying and beating myself.

Late that night, they cut the electricity off and the room became very dark. Then, they opened the door and brought some children inside. We were all looking for our children, feeling around for them like animals, touching their hair and bodies. All the women grabbed onto the children they touched. We were kissing them and gently holding them.

After around half an hour, they turned the electricity on. We saw all the mothers embracing different children. With the lights on, each mother found her own children. There were so many people in the room that no one could sit or rest. We spent the evening standing.

In the morning, they opened the door. They gave us only a few small loaves of hard bread. We divided the bread among ourselves and fed our children.

Once a day, they let us go to the bathroom. But, it was also a sort of punishment because they forced us to walk past a room where the men were held. We looked at them through the window. Many were tied down. Others were being beaten with wire cables.

Later, they brought some of the men, blindfolded and handcuffed, to the room where we were held. They forced them to walk through the room. If one fell, the security agents would beat him.

On the third day, they brought us out into a hall. We saw the shoes and clothes of the men on the floor. We felt hopeless.

Then, they took us in buses to an Arab village in a different district. We were all crying. The Arab women and children received us by laughing, clapping, dancing, and throwing stones.

They took us to a camp. They forced us to get out of the vehicles and moved us through a narrow passage with barbed wire on both sides. The guards said, "Hurry up. Move along!" It was very dark. We could see a dim light from the camp. Everyone held on to the person in front of them. We walked forward to the sound of crying children, screaming women, and the wind.

As we entered the camp building, they turned off the electricity. We were very scared. I felt something thick and unpleasant against my feet. I had no idea what it was because it was so dark. We stayed in the darkness until around midnight when they turned on all the lights.

Then, we saw the bones of dead people.

There was blood on the walls and there were pieces of bloody cloth that no one dared touch.

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I stayed awake all night. Many of the women and girls were sick with fear. For breakfast, they gave us several loaves of bread. We cut them into pieces and put them in water and gave this to our children.

Each day, my baby grew weaker. Since I hadn't eaten food, I had no milk. During the first two weeks, I fed my baby with sugar that I begged from some of the women who brought things from their homes. By the time we arrived at the camp, all the food was gone.

I asked the guards to bring a doctor to treat my baby. Instead, they came and took my baby from me. I tried to follow the guards. The other women pleaded with them to give me back my child. I fell on my knees and kissed their boots. They kicked me. They took my baby out of the room. I never saw him again.

After that, there was a fatal disease that afflicted many of us. People started vomiting. Four or five children died every day. Some days, old people died as well. Every day more people died.

Because so many people had died, they started giving us better food. They brought us eggs, cheese, jam, rice, and soup.

There was one intelligence agent who was very cruel. He assaulted women and forced them to have sex with them. He beat me in a very brutal way and raped me.

Some of us pretended to be sick, and with the help of the medical committee, we were transferred to the hospital. Then, we informed our relatives to come to the hospital so they could see us. We saw each other but didn't speak. Sometimes, I would write letters which I would pass to my relatives hidden inside different things.

There were two Arab guards who helped me pass information from the prison to our friends and family outside. I did a lot of things through those two guards, but our work together didn't last long. An intelligence agent learned that I sent letters to my relatives and one day, he found one of the guards with a letter I'd written.

He read the letter and sent it to Security Directorate in Kirkuk. They brought an armored car to take me away. They charged me with helping the Peshmurga. I denied the accusation.

They beat me. They tortured me. They wanted me to confess. They locked me in a room which was shut with a big padlock. Inside, I saw shoes, a dress, a jamana, and some bones. I stayed there for three days. They beat me every day with a wire cable and a pipe. I was afraid that I would be killed.

After around six months, an agent named Ali started firing into the air. He told us to stand up and start dancing. He told us that the President had granted a general amnesty.

"The men have already been released and you will be released tomorrow."

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In the morning they put us in a vehicle that took us to Tobzawa, Kirkuk, and then Chamchamal.

I went to my brother-in-law's home. He took in my daughters, but rejected me.

My family said that I dishonored them in prison. Some said I collaborated with the regime. Others said I failed to wear black clothes as a symbol of mourning for my husband and had broken Kurdish tradition. They hit me and insulted me. They took my children and forced me out of their home.

I went to the house of some other relatives. They begged my brother-in-law to let me be with my children, but he refused saying. "They're not her children. I don't care where she goes. If she returns I'll kill her."

Eventually I found a man who took me to my father's new home. He was very kind to me. I spent six months there, far from my children. I was like a mad woman. I fainted many times each day. I saw my children in my dreams.

Later, we sent several respected, elderly men to my brother-in-law's home to convince him to let me see my children. It was useless.

I began to suffer from a psychological illness. My life was full of misery and suffering.

After the liberation of Iraq, I went back to Kirkuk. Now, I work for an organization that helps women who were victims of the Anfal campaign. I am committed to working with these women and to trying to improve their lives.

I will never forget what happened to me. I think constantly about the brutality I suffered and remember how I was beaten. I often think of my baby who was taken out of my arms by security agents and who died alone, without me.

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U.S. Senate Committee on the Judiciary
Subcommittee on Human Rights and the Law
Written Statement on Sexual Violence in eastern Congo
By Colin Thomas-Jensen
Policy Advisor for ENOUGH the Project to End Genocide and Crimes against Humanity

Thank you Chairman Durbin and Senator Coburn for holding this important hearing and allowing witnesses to submit written testimony for the record.

My name is Colin Thomas-Jensen and I am Policy Advisor for the ENOUGH Project. ENOUGH was founded in 2006 with a mission to build a permanent constituency in the United States to end genocide and crimes against humanity wherever they occur. Our initial focus is on conflicts in Africa, and our analysts on the ground in the Democratic Republic of Congo, Sudan, Chad, and Uganda guide ENOUGH's policy recommendations. Here in the United States, ENOUGH collaborates with activist groups on activism and advocacy targeted at U.S. policymakers.

The purpose of my testimony is to provide a brief overview of recent political developments in the eastern Democratic Republic of Congo, and how these developments relate to the scourge of sexual violence that plagues that troubled region. At the end of my testimony, I offer policy recommendations aimed specifically at consolidating recent diplomatic gains and protecting women and girls.

While a recent ceasefire agreement in eastern Congo is hailed as a diplomatic success, the continued suffering of Congolese civilians remains an international failure. According to the International Rescue Committee's latest study of mortality in Congo, 5.4 million people (and counting) have died in the conflict since 1998, mostly due hunger, disease, and other consequences of violence and displacement. Despite a peace deal signed in 2002 and relatively fair elections held in 2006, preventable death continues at the same pace—a staggering 45,000 people die each month, half of whom are children under five.

Indeed, war in the Great Lakes region has really been in a state of suspension over the last few years. Heavy fighting occasionally makes the news, but systematic and widespread crimes against humanity simmer below the surface. Congolese women and girls in particular bear the vicious brunt of this crisis. Without question, eastern Congo right now is one of the worst places in the world to be a woman or a girl—perhaps ever. Sexual violence and rape occur on a scale seen nowhere else on earth. Violence against women is intended to mutilate and humiliate. Rape as a weapon of war—defined by the United Nations as a war crime—is causing the near total destruction of women, their families, and their communities.

I was in eastern Congo in July 2007, and I was in North Kivu province again in March. The humanitarian situation there was dire last year, and has only gotten worse. The end of 2007 was accompanied by an escalation in armed conflict and displacement, and all

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sides—Congolese rebels, the Congolese army, and numerous Congolese and foreign militia groups—were guilty of attacks on civilians.

The continued atrocities in the East have two underlying causes:

1. The long-standing structural weaknesses of the Congolese state, in particular the predatory nature of its armed forces and the general state of impunity and lawlessness across the country; and

2. The rise of parasitic armed groups—driven by competition for vast natural resources, struggle for political power, communal tensions, and legitimate security concerns—which fill the vacuum of the state and feed off its people. These groups include 8,000 to 9,000 Rwandan and Ugandan rebels and 5,000 to 8,000 local militiamen that operate in the East. The most dangerous of these groups is the Democratic Forces for Liberation of Rwanda, or FDLR, a Hutu militia that includes some of the perpetrators of the 1994 Rwandan genocide.

In early December 2007, the Congolese army launched an offensive against rebels led by a dissident Congolese General named Laurent Nkunda. It was the largest military offensive of Congolese President Joseph Kabila's seven-year tenure. At least eight local militias—also parties to the peace deal—helped the 20,000 Congolese troops fight Nkunda's superior forces. The offensive ended in fiasco; Nkunda weathered the assault and forces from all sides raped, looted and killed civilians in the process.

As armed groups fought, moved, and dispersed from one town to another, so did the civilian population. The fighting in December caused the seventh major wave of civilian displacement in North Kivu since November 2006. An officer with the United Nations peacekeeping mission in Congo, or MONUC, suggested that as many as 70-80,000 people have been displaced as a direct result of the botched offensive. Thus, the past year of hostilities in North Kivu has displaced an estimated 437,000 people. Previously, the majority of displaced people found shelter with host families and communities. However, many communities can not absorb more displaced people, and newly uprooted Congolese are settling in camps. Recent reports estimate nearly 170,000 people are living in camps in North Kivu.

Now, finally, there is *some* good news to report from eastern Congo. On January 23rd, the government signed a peace deal with nine rebel groups in the eastern North Kivu region. And, finally, the United States has, for the first time in almost a decade, put some diplomatic muscle to work to help find a solution. Tim Shortley, special advisor to Assistant Secretary of State for Africa, spent two weeks hunkered down in the eastern Congo, shuttling between rebel and government delegations. Senior diplomats for the European Union and Belgium cancelled appointments and followed suit.

The centerpiece of the peace deal is a ceasefire between the government and the rebels led by General Nkunda. The ceasefire orders the creation of a commission—chaired by the government and co-chaired by the international community—to oversee several

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aspects of the deal, including military integration of Nkunda's forces; the disarmament, demobilisation, and reintegration of ex-combatants; the deployment of United Nations observers to monitor the ceasefire, the reinforcement of United Nations Peacekeepers' presence to protect the civilian population; the implementation of the plan to disarm and repatriate foreign armed groups; and the creation redeployment calendar of armed groups into transit and demobilization centers. This is what can be achieved when the international community puts its mind to it, and the Bush administration—particularly Mr. Shortley—deserves credit. But this is also just the beginning; most of the heavy-lifting has yet to be done.

Unsurprisingly, there is a very tight correlation between continued conflict and high death rates. And therefore the policies needed to achieve twin goals in eastern Congo—ending conflict and reducing human suffering—are closely linked. As is the case in Darfur, Somalia, and Iraq, the extreme human suffering in Congo will not abate until progress is made to resolve the political crisis at the root of the problem.

According to the United Nations, at least 1.2 million people are displaced inside Congo, most of them in the East. In the western part of Congo, death rates are similar to those in other parts of sub-Saharan Africa. In the East, the rates are double. People die in eastern Congo in huge numbers, indirectly due to the ripple effects of violence: continuing attacks, ongoing rapes, and routine looting and forced labor all lead to waves of displacement, frequent epidemics, limited access to basic health services, persistent hunger and malnutrition, and spiraling impoverishment.

Having suffered through years of avaricious leadership and simultaneous economic decline, the Congolese state is simply unable to protect its citizens. Worse, the Congolese army is guilty of widespread human rights abuses, and the misconduct of soldiers is often condoned or ignored by high ranking officials. The prevailing attitude of the army is that soldiers cannot be held accountable for their actions and that it is the woman's fault for being raped. At a recent educational event about the consequences of sexual violence in Goma, a top ranking army official announced publicly: "women should know not to go out in places where there are armed men."

A non-functioning state means that there is no recourse but to the slivers of international assistance that trickle in via heroic aid agency efforts, but the scale of the problems in the Congo dwarfs the response of donor governments. Moreover, humanitarian access to these vulnerable populations is under constant stress, and UN agencies and non-governmental organizations, or NGOs, are fighting an uphill battle to save lives. Where aid agencies do get involved, death rates go down. However, the humanitarian aid trickling through is a small drop in an ocean of need, and UN officials report they have less access now in parts of North Kivu than they did in the fall of 2006.

In eastern Congo, divisive issues such as citizenship and land ownership have, over decades, splintered into innumerable grievances, stoked by politicians and militia leaders who benefit from conflict. With an army that is more a predator than a protector, the civilian population is forced to rely on armed militias to defend and guard their respective

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interests. But armed groups rarely act on behalf of the civilians they claim to defend. Militia groups pursue their own interests—particularly control over lucrative mineral resources—and as new grievances develop, so do new factions. Armed groups, old and new, terrorize communities into accepting their control or punish those loyal to the opposing parties/forces. And, again, women bear the brunt of this punishment.

It is not just armed groups that are guilty of rape; the civilian population is increasingly culpable as well. Rapes committed by civilians are on the rise. Throughout the recent conflicts, Congolese traditional society (such as community chiefs) has also suffered a slow disintegration. Without a strong presence of traditional higher authority or state authority, the general civilian population can commit crimes and not be held accountable. This is especially true for large cities. In Goma alone from January to September 2006, 3,500 victims received care and treatment for rape. In some places in North Kivu, the number of rapes committed by civilians is threatening to eclipse those committed by armed men.

Even though adjustments have been made to Congolese penal code to help deal with the epidemic of sexual violence, the foremost problem in Congo is *a culture of impunity* because of the lack of a strong Congolese state. For the women and young girls who have had the courage to publicly identify their rapists, prosecutions are slow to non-existent. Perpetrators thrown into jail are often able to simply pay guards for their release. Some have even just broken through the walls. There is little to no follow-up by authorities if a man escapes. Even worse, because there is no witness protection program in Congo, many perpetrators are able to find and terrorize their accusers again. There are numerous accounts of victims being re-raped in revenge. Women and young girls have even had their mouths cut off so that they "won't tell again."

Faced with gruesome acts of violence and sexual torture, international condemnation unaccompanied by dramatic action is simply unacceptable. Although the international community has agreed on its "Responsibility to Protect", its efforts to protect civilians in the Congo —in particular women and girls—are failing spectacularly.

ENOUGH's field researcher recently asked a rape survivor named Jacqueline (not her real name) what she thought of the ceasefire she replied "There won't be any peace. Peace will only come from god, because men can't do it." Jacqueline was raped years ago in Rutshuru by a group of armed men that broke into her house. Right now she is waiting for her fifth fistula repair surgery in a safe house outside of Goma. A fistula is a hole in the vaginal area that can develop through days of difficult childbirth, or, in this case, from exceptionally violent rape. Essentially, the blood supply to the vagina is cut and the tissue deteriorates and tears.

At ENOUGH we are in the business of providing policy solutions, we *do* believe that this crisis can be resolved and that the nightmare facing women like Jacqueline can be brought to an end.

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ENOUGH has argued consistently that international efforts to end the crisis must focus on two principal short-term objectives: to negotiate an end to the conflict in North Kivu province between the Congolese government and dissident Congolese General Laurent Nkunda, and to remove the FDLR from eastern Congo.

A comprehensive peace strategy requires vigorous pursuit of the *3Ps of crisis response*: peacemaking, protection, and punishment:

Peacemaking: The international community—led by a quartet of guarantors that includes the United States, the European Union, the United Nations, and the African Union—must consolidate a recent ceasefire agreement to a lasting peace agreement that addresses the root causes of conflict in eastern Congo and deals squarely with the FDLR. Follow through must include additional funding and personnel for programs to demobilize ex-combatants and stabilize the region.

Protection: The United Nations Peacekeeping Mission in the Congo, or MONUC, must lead protection efforts by increasing troop presence in the eastern Kivu provinces and deploying to areas where sexual violence is most prevalent. Donor nations must increase support for humanitarian and development initiatives aimed at reducing sexual violence and dealing with its after effects.

Punishment: The international community must break the cycle of impunity for crimes against humanity by helping to build the capacity of the Congolese state to respond to and protect its citizens. Additionally, the International Criminal Court, or ICC, should open an investigation into the use of rape as a war crime in eastern Congo.

In closing, these short term measures to end the immediate crisis must be accompanied with a coordinated long-term strategy to deal with the structural causes of Congo's plight. My ENOUGH colleague Gayle Smith testified on this topic before the Senate Subcommittee on African Affairs last year. Gayle's testimony is available at http://www.enoughproject.org/node/635.

Thank you again Chairman Durbin and Senator Coburn for holding this important hearing.

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Testimony of
Karin Wachter
Gender-Based Violence Technical Advisor, International Rescue Committee

Before the
Subcommittee on Human Rights and the Law
Committee on the Judiciary
United States Senate

"Rape as a Weapon of War: Accountability for Sexual Violence in Conflict"
April 1, 2008

Please let me begin by saying that I feel extremely privileged to have been invited to speak with you all today. I bring to this hearing today first-hand experience working on the issue of violence against women and girls, and the insight gained through a decade lived on the African continent. I represent and speak from the perspective of a U.S.-based non-governmental humanitarian organization that has prioritized the problem of violence against women and girls in conflict and seeks to assure that they not only survive conflict, but ultimately thrive in times of peace.

Today, I will share with you my personal experience and thoughts on the subject. I will also strive to represent some of the voices and experiences of the hundreds of national and expatriate humanitarian workers devoted to this issue, many of whom are themselves civilian victims of war and displacement.

Above all, I wish I could share with you the voices, concerns and hopes of the tens of thousands of women and girls who come forward for help, having been assaulted, tortured, humiliated and disabled simply for having been born female and getting caught in the cross-fire of war.

I started working with the International Rescue Committee (IRC) in eastern Congo, where, already back in 2002, women were talking about not the one time they were brutally sexually assaulted, but about the third or fourth time. Many of them were abandoned by their husbands or families, often with the babies that were born as a result. It was at this time that the problem of rape-related fistula was first picked up on the international radar screen.

By the time I arrived in Burundi in early 2006, their war – notorious for its use of sexual Violence – was mainly over, but peer organizations such as Médecins Sans Frontières (MSF) still had a constant stream of mothers bringing their daughters for post-rape care in the areas where the rebel army had settled down. Adult women were reluctant to seek help for themselves because they were afraid of the repercussions of doing so.

In May of 2007, I was in Northern Uganda. While the political situation was already stabilizing, sexual abuse and exploitation of adolescent and young girls were rampant in

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the camps. Within days of launching IRC's program, we saw more abused girls seeking help than anybody initially imagined possible.

In the past six years, I have seen firsthand the sexual and physical violence against women and girls in 10 different conflict-affected African countries. We would not be exaggerating to call this violence a global human rights, public health and security crisis. The perpetration of sexual violence is both a tactic of warfare, and an opportunistic consequence of conflict and displacement. They often go hand-in-hand. Either way, women's bodies become the frontline of an unnecessary and cruel battle.

As a weapon of war, sexual violence seeks to accomplish a larger objective than the individual act of rape itself. The systematic use of rape in war has many purposes, including ethnic cleansing, elimination, humiliation, or control and domination of target populations – based on their ethnicity, political affiliation, nationality or geographical location – and obviously their gender. Up to a half a million women were raped during the Rwandan genocide. We've seen this tactic or strategy used year in and year out in eastern Congo, where the national military and numerous rebel groups use brutal forms of sexual violence - in part to secure their own food and provisions from the rural population. It is domination through sexualized terror.

This form of warfare is so effective – and so open to being modified depending on the whim and depravity of the perpetrators – because while it is the bodies and spirits of women and girls that are directly trampled upon, sexual violence creates deep wounds and schisms within the target community. It destroys the fabric of a community in a way that few weapons can. It produces unwanted children, it spreads disease, and it leaves an imprint on the individual and collective psyche that is difficult to erase.

This strategic use of sexual violence is usually accompanied with a sharp increase in opportunistic rape, carried out not only by armed groups in an environment of impunity, but within the family or community as well. Societal norms that regulate behavior and afford some degree of protection to women break down during war, and give way to an 'anything and everything goes' mentality that can, over time, rub off on the affected population.

During conflict women and children make up the majority of the world's refugees and internally displaced persons. They are often separated from their nuclear and extended families. Necessary tasks for survival in areas of insecurity – such as firewood and water collection or farming, which are typically the work of females – increase their exposure to sexual violence on a daily basis. Sexual assault of women and girls engaged in foraging for basic survival needs has become so commonplace that in the field it is glibly referred to as "firewood rape".

While men and boys are affected by conflict in many terrible ways, women and girls are the ones who are predominantly raped, mutilated, abducted into sexual slavery, and sexually exploited during times of conflict. Let us not sugar-coat the reality we are talking about here - sexual violence is a form of torture.

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During the Indonesian occupation (1975 – 2002), women in East Timor were subjected to the same human rights abuses the general Timorese population experienced, but were also targeted for rape, sexual harassment, enforced slavery, and were forced or coerced into prostitution to service the Indonesian military. Women who were associated (or assumed to be) with the East Timorese resistance movement were particularly targeted for violence carried out by the state. In the post-referendum violence, the militia groups continued to perpetrate these forms of violence against women.

It has been said that it was the Bosnian war that woke up the international community to the ways in which war and conflict are inherently gendered experiences. Tens of thousands of Bosnian women and girls were subjected to egregious acts of violence—raped in front of their family members, forced into sexual servitude, impregnated, forced into rape camps, and subjected to genital mutilation.

All over the world, the consequences of sexual violence are far-reaching. Survivors are exposed to and suffer from serious and debilitating short- and long-term social and physical and mental health and economic consequences, including: death, severe injuries, fistula, sexually transmitted infections, HIV/AIDS, and unwanted pregnancy; impaired function, anxiety, fear, shame, post-traumatic stress, hopelessness, and suicide; rejection and stigmatization by families and communities, extreme isolation and increased economic hardship.

In many contexts, rape means a girl's or woman's chances to marry are greatly diminished. Without the relative security and status that marriage provides in traditional societies, women are left vulnerable and further exposed to sexual and physical exploitation. And you can only imagine what it does to a family to watch your daughter gang-raped, or your wife's pregnant belly sliced open, or your son obliged to hold down his sister while soldiers force you to violate her.

The physical, psychological and social consequences of this kind of violence are very real and often go untreated. The effects of this type of wide-spread sexualized terror on the family and community have long-term implications for a nation's capacity to heal and rebuild after war.

And unfortunately, for women and girls, the threat of violence remains long after fighting ends. We know that reporting rates for sexual abuse in contexts emerging from war in which sexual violence was systematically used by armed forces will remain high – but that the perpetrators will often be the members of the community itself. Crippled, corrupt or destroyed justice systems do little to dissuade civilians from abusing their relative degree of power and control.

Once having escaped the conflict, women may be forced to exchange sex for survival and protection of their children. During protracted humanitarian crises, women also face a growing threat of physical, sexual and economic abuse within their own households.

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It is difficult for people to understand that the survivors of these atrocities will continue to come forward even once the war ends, and sometimes en masse. In times of relative calm, access to services improves and women and girls who have suffered for years as result of an attack – or multiple attacks – come forward when it becomes possible and safe to do so. Currently, women in eastern Congo have to walk for days to reach health services, and frequently are subjected to attacks again during their journey to seek help. Access to life-saving services is a prevailing problem in the rural contexts affected by war due to the absence of infrastructure, resources and lack of capacity.

In protracted refugee situations, such as the Burundians in Tanzania or the Burmese in Thailand, we see the male refugee population idle and disenfranchised, and rates of physical violence in the home rise the longer they are in camps.

The situation in West Africa is just as concerning. Since the end of the wars in Liberia and Sierra Leone, service providers and police have seen an increase in reports of violence. Survivors report incidents of sexual violence perpetrated by intimate partners, neighbors, and friends. They report incidents of domestic violence, experiences with forced and early marriage, and female genital mutilation.

In Sierra Leone, in 2007 alone, 1176 girls and women sought care for sexual or physical violence at IRC centers . . . 65% of those cases were under the age of 15. . . 64% of those cases were rape or gang-rape . . . the youngest client was two months old.

A recent study conducted by the IRC and Columbia University in Liberia (August 2007) indicated that violence against women and girls is dramatically widespread. In the study population: 55% of the women surveyed had experienced domestic violence; 30% of all women seeking medical attention have experienced domestic violence; 72% of women reported that their husbands had forced them to have sex in the last 18 months; and, 13% of minors in one county and 11% of minors in another county had been sexually abused in the last 18 months.

Please let me assure you that at the bottom of all of this suffering is in fact a message of hope.

1. Given what we know about the relationship between conflict and sexual violence, the burden-of-proof for sexual violence in humanitarian emergencies should be to provide evidence that rape is in fact *not rampant*. The international community now maintains that sexual violence is to be assumed in all humanitarian emergencies – including natural disasters. The humanitarian community – United Nations and NGOs alike – has made great strides in developing industry standards and guidelines for establishing the response to conflict-related sexual violence in humanitarian emergencies. At this point, we know what it takes to launch an effective response and we know how to monitor the quality of that response; what is harder is deploying the necessary technical expertise, given the relatively limited pool of humanitarian aid workers specializing in violence against women in conflict.

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In addition, we have made good progress in gaining the commitment and buy-in from key American donors – the State Department's Bureau for Population, Refugees and Migration (BPRM) and USAID – to allocate much needed resources to this crucial issue. We still have a long way to go. An increase in resources translates into being able to hit the ground faster and more effectively to set-up life-saving services and start advocacy efforts at the onset of an emergency.

The United States has a key role to play in promoting the allocation of resources to stop violence against women in war and to ease the suffering of its innocent victims.

2. Violence against women in conflict is now commonly understood by the international community as a violation of basic human rights. The understanding of a state's responsibility to protect women from violence has evolved considerably. Senator Biden and Senator Lugar recently introduced bipartisan legislation – the International Violence Against Women Act (IVAWA, S.2279) – which would make violence against women a key priority in U.S. foreign assistance programs.

The legislation is of vital importance for the hundreds of thousands of women and girls affected by violence. In recognition of how violence against women is exacerbated by conflict and continues long thereafter, the IVAWA bill is designed to address the issue in war-torn, post-conflict and development setting. Those of us working day in and day out on this issue anxiously wait for this piece of legislation to be passed.

Addressing violence against women in conflict is smart foreign policy and the American people care more about this issue than we may think. When the IRC launched a web-based petition to help garner support for the IVAWA bill, a surprisingly high number of the 50,000 Americans who signed the petition also wrote a personal note, expressing their sincere concern about violence against women and girls in conflict. This unexpected outpouring of concern led us to launch a modest e-advocacy campaign, in which the general public was invited to write words of encouragement to Congolese women and the local activists and organizations working to assist them. Within 10 days of launching the campaign, we had 2,779 people who wrote messages of support in response to the crisis in DRC.

Please permit me to share two examples of what people wrote:

A woman from New York wrote: *"There are few words that can express the nature of the horrible wrongs which you face every day. We all have the right to safety and respect. Continue to speak out of the injustices and the violations of your souls. We are listening..."*

A man from Virginia wrote: *"We are writing our leaders and sending funds to help. I have also included your story in my blog. I hope that we can make a difference. I am remembering you when I vote and write Congress. I hope that the U.S. can become a force to help you in the Congo."*

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3. The United States has the opportunity to rally member states within the United Nations system on increasing attention and commitment to preventing sexual violence in conflict and responding effectively to the survivors. Above all, we look to the United Nations for sustained action – in ensuring effective humanitarian coordination as it relates to sexual violence in conflict; in promoting the accountability of nation states in which sexual violence goes unchecked; and, to help ensure the presence of women at the table during peace talks and reconstruction efforts.

The irony we face in this line of work is that conflict can open the door to address what is without fail a pervasive and very taboo subject matter. Over time, we see the effects of our work – we see the numbers of women and girls receiving essential services increase dramatically. We see local activists and local women's groups learn how to approach survivors' needs holistically and help to get them the care that they need. Local health professionals learn to overcome their own biases and misconceptions about sexual violence and begin to treat survivors with the care, compassion and privacy they deserve. And the violence and suffering that women and girls have been quietly handling alone begin to be discussed as an issue that affects the entire community.

We see women find their voice, first amongst other women, and then within the community – to speak about the issues they face and how they envision a life free from violence for themselves and their children. We see men take interest and start to take action within their own families and their communities at large. Sometimes, as in Liberia or Sierra Leone, we even see laws and policies that discriminate against survivors of sexual violence start to change.

I thank Chairman Durbin, Ranking Member Coburn and the Members of the Subcommittee for your time and interest in this worthwhile cause. Sexual violence and its extreme consequences do not have to be an inevitable component of conflict and displacement.

The women and girls from conflict zones are waiting for the chance to heal and live free from the threat of violence. The U.S. government can help make that hope a reality for women and girls around the world. We look to you for action.

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Statement by the Women's Commission for Refugee Women and Children for the Subcommittee on Human Rights and the Law, Senate Committee on the Judiciary, Hearing on "Rape as a Weapon of War: Accountability for Sexual Violence in Conflict"

April 1, 2008

The Women's Commission for Refugee Women and Children (Women's Commission) applauds Chairman Durbin and the Subcommittee for bringing much-needed attention to an issue that threatens the lives and well-being of millions of displaced persons, particularly women and girls. Of the estimated 35 million persons displaced by conflict, at least 50% are women and girls. They are especially vulnerable to rape, sexual abuse and exploitation. Too often, the international community fails these women and girls at multiple levels. They have not been protected from war, they may be at risk in their place of refuge, and they may have limited or no access to the care and services they need to rebuild their lives.

The international community must take immediate action to ensure that survivors of sexual violence receive appropriate medical and mental health care. But it is not enough to simply treat survivors. The international community must make efforts to prevent sexual violence and exploitation a top priority. It is not acceptable to view violence against women and girls in humanitarian crises as an inevitable fact of conflict. It is not acceptable to have a situation like the one in the Democratic Republic of Congo where a ten-year vicious campaign against women and girls is only now receiving broad international attention, and services remain grossly inadequate to meet the needs. It is not acceptable to witness in yet another humanitarian crisis the rape of women and girls when they go out to collect firewood to cook their food rations or to sell to meet their basic needs.

Contours of the Problem in Conflict Areas

Violence against women and girls is a massive global problem and is especially pervasive in conflict areas. Rape as a weapon of war has been a tragic feature of a number of conflicts, including those in Bosnia and Herzegovina, Liberia, Rwanda, Uganda and Darfur. Rape is used to humiliate, intimidate and destabilize populations, and destroy communities. In the Democratic Republic of Congo, more than 25,000 women and girls were raped in 2005 alone.[1] It is estimated that 60% to 70% of the population of Liberia suffered some form of sexual violence during that four-year conflict.[2] In Bosnia and Herzegovina alone, estimates of the number of women raped range from 10,000 to 60,000.[3]

Refugee and internally displaced women and girls are at heightened risk not only of rape and sexual assault but also other forms of gender-based violence, including exploitative sex, domestic violence, sex trafficking, and other harmful practices. The risks are exacerbated by the very nature of humanitarian crises which are typically characterized by extreme poverty, social instability, powerlessness, limited law enforcement, and varying levels of violence. Displaced women and girls may be forced to exchange sex for basic necessities, including food, water, or medicine. Impoverished refugees may resort

[1] Statement by Mr. Jan Egeland, Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator on the Protection of Civilians in Armed Conflict, December 4, 2006.
[2] See Amnesty International, Liberia: No Impunity for Rape--a Crime against Humanity and a War Crime (AI Index: AFR 34/017/2004), http://web.amnesty.org/library/Index/ENGAFR340012007?open&of=ENG-LBR
[3] http://www.who.iint/violence_injury_prevention/violence/world_report/factsheets/en/sexualviolencefacts.pdf

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to transactional sex as the only way to earn money. Domestic violence may rise as frustrated men and boys struggle with a loss of income, no opportunities for work or schooling, and the loss of their traditional roles and position in the community. And as we have seen in Darfur and so many other displacement crises, women and girls can also find themselves at risk of assault and rape if they must travel long distances to collect firewood or water.[4]

The perpetrators of gender-based violence in conflict-affected areas run the gamut from armed factions to peacekeeping and police forces, to humanitarian aid workers, members of local host communities, and refugees themselves. And they often operate in a climate of impunity. Law enforcement may be weak at best. Victims may have no access to complaint systems or legal remedies, and cultural considerations may cause many survivors to suffer in silence.

The damage that the perpetrators inflict on their victims and on the larger community is deep and often long-lasting. Many survivors of sexual violence have difficulty accessing needed health care, which prolongs their physical recovery and in some cases puts their very lives at risk again. The psychological and social struggles may be even more difficult, especially in cultures where victims of sexual violence are rejected by their families and shunned by their communities. The isolation is often compounded if a rape results in pregnancy. Research has shown that the younger a girl is when she is raped or assaulted, the more lasting the negative consequences of the attack.[5]

The Need for a Comprehensive Approach to Stopping Sexual Violence

The international community must make preventing and responding to sexual violence a top policy, programming, and funding priority. The problem cannot be approached in a piecemeal fashion. Our response cannot begin and end with care for survivors. The goal must be to stop the violence and exploitation from occurring in the first place. This requires an intensive and sustained commitment to address all aspects of the problem. It requires attention to and action on the complex issues related to impunity. It requires the integration of protection into every aspect of humanitarian response. It requires full support for community education programs that include men and boys and are aimed at changing attitudes that put women and girls at risk. And it requires additional funding for education and income generation programs. These programs can help reduce the vulnerability of displaced women and girls to exploitation and abuse, and provide refugees with the skills they will need to help rebuild their country when peace returns.

The humanitarian community has made good progress in recent years in understanding the protection needs of displaced women and girls, and developing guidelines for the prevention and response to sexual violence in emergencies. It is important now to ensure

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[4] Women's Commission for Refugee Women and Children, *Beyond Firewood: Fuel Alternatives and Protection Strategies for Displaced Women and Girls*, March 2006.
[5] Gordon, Peter and Crehan, Kate, Draft in Progress: *Gender and the HIV Epidemic: Dying of Sadness: Gender, Sexual Violence and the HIV Epidemic*, UNDP.

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that the guidelines are in place across humanitarian settings and from the very start of an emergency, and are integrated into planning and programming.

As recently as 2005, the Women's Commission found that the majority of humanitarian organizations operating in Chad and Darfur were not providing medical care for rape survivors, although at that point the conflict was into its second year and there was widespread reporting of rape. Increased funding is needed to train humanitarian workers and to ensure that survivors of sexual violence have access to the care they need to mitigate the effects of trauma or prevent death. And donors should provide strong support to humanitarian organizations in the implementation of prevention and response guidelines into field operations so that the protection needs of women and girls are fully addressed in all phases of a humanitarian emergency.

To help reduce instances of sexual exploitation and abuse, and consistent with the Inter-Agency Standing Committee's Six Core Principles Relating to Sexual Exploitation and Abuse, humanitarian organizations should be held accountable for the development and enforcement of codes of conduct for all staff that include staff training, the establishment of reporting mechanisms that are known and understood by the community, and effective response mechanisms when incidents are reported. The U.S. and UN member nations should also strongly support ongoing efforts by the U.N. Secretary General to strengthen the ability of peacekeeping and policing operations to prevent and respond to violence against women and girls.

The Women's Commission would also like to highlight the development of a new set of guidelines aimed at ending the vulnerability of women and girls to rape during firewood collection. The guidelines are being developed by an Inter-Agency Task Force co-chaired by the Women's Commission (on behalf of InterAction), the UN High Commissioner for Refugees and the World Food Programme. These guidelines, which capture the protection, health, environmental, and income implications of the fuel problem, will be ready for review later this year. We look forward to working with the humanitarian community and donors to ensure their implementation.

The Importance of U.S. Leadership

As a leader in humanitarian and development assistance, the U.S. has both a responsibility and an opportunity to lead the world community in the effort to prevent and respond to violence against women and girls.

Legislation was recently introduced in the Senate that would put the U.S. at the forefront on this most critical issue. The International Violence Against Women Act, introduced by Senators Biden and Lugar, would make efforts to prevent and respond to violence against women and girls a top priority in U.S. diplomacy and would ensure that prevention and response efforts are integrated into all existing, appropriate U.S. foreign assistance programs. The bill contains a number of provisions that would help ensure that gender-based violence is addressed in humanitarian relief, and in conflict and post-conflict settings. Most importantly, the bill reflects the need for a comprehensive solution to this

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multi-faceted problem. Prompt action on this legislation will make a real difference in the lives of vulnerable women and girls. And it could serve as a catalyst for concerted action by the international community on an issue with far-reaching and tragic impact. As it was so aptly described in 2003 by the U.N. Special Rapporteur on Violence Against Women, violence against women violates the basic human rights of women and results in "devastating consequences for women who experience it, traumatic impact on those who witness it, de-legitimization of States that fail to prevent it, and the impoverishment of entire societies that tolerate it."

We thank the Subcommittee for focusing today on the particularly devastating impact of sexual violence in conflict settings and look forward to working with the Members of Congress to keep this issue squarely on the priority action agenda for the U.S. and the international community.

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