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**The Long Road:** Accountability for Sexual Violence in Conflict and Post-Conflict Settings

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### Publication Date

2015-08-01

# HUMAN RIGHTS CENTER

UC Berkeley School of Law



2015

## **THE LONG ROAD**

Accountability for Sexual Violence in  
Conflict and Post-Conflict Settings

**KENYA • LIBERIA • SIERRA LEONE • UGANDA**

This report summarizes a four-country study conducted by the Sexual Violence Program at the Human Rights Center, University of California, Berkeley, School of Law. It was written by Kim Thuy Seelinger and Julie Freccero.

The Human Rights Center conducts research on war crimes and other serious violations of international humanitarian law and human rights. Using evidence-based methods and innovative technologies, the Center supports efforts to hold perpetrators accountable and to protect vulnerable populations. The Center also trains students and advocates to document human rights violations and to turn this information into effective action.

The Sexual Violence Program at the Human Rights Center works to support survivors of conflict-related sexual violence by providing policymakers and practitioners with evidence-based recommendations on how to improve accountability and protection mechanisms. This study identifies key challenges and strategies related to reporting, investigating, and prosecuting sexual violence in Kenya, Liberia, Sierra Leone, and Uganda and provides insights into their potential to investigate and prosecute sexual violence as an international crime. Fieldwork for the study took place from 2011 to 2014.

This study was made possible by grants from Humanity United, the Open Society Foundation's International Women's Program, and the John D. and Catherine T. MacArthur Foundation. The information provided and views expressed in this summary report do not necessarily reflect the views of these funding agencies.

Separate research, focused on accountability for sexual violence in eastern Democratic Republic of the Congo and funded by the Open Society Foundation's International Women's Program and the John D. and Catherine T. MacArthur Foundation, will be released in 2015.

For both reports and more information about the Human Rights Center, please visit <http://hrc.berkeley.edu>.

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Conflict and Post-Conflict Settings

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**2015**



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# ACRONYMS AND ABBREVIATIONS

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CBO	community-based organization
CFPU	Child and Family Protection Unit (Uganda)
CLOs	case liaison officers
DCI	Directorate of Criminal Investigations (Kenya)
DPP	Directorate of Public Prosecution (Kenya, Uganda)
DV	domestic violence
FAWE	Forum for African Women Educationalists Sierra Leone
FGM/C	female genital mutilation /cutting
FSU	Family Support Units (Sierra Leone)
GBV	gender-based violence
HRC	Human Rights Center
ICC	International Criminal Court
IDPs	internally displaced persons
IJM	International Justice Mission
INGO	international non-governmental organization
LC	Local Council (Uganda)
LNP	Liberia National Police Force
LRA	Lord's Resistance Army (Uganda)
LURD	Liberians United for Reconciliation and Democracy
MSF	Médecins Sans Frontières
NGO	non-governmental organization
NPFL	National Patriotic Front of Liberia
OSC	one-stop center
PEP	post-exposure prophylaxis (for HIV)
PRC	post-rape care
RUF	Revolutionary United Front (Sierra Leone)
SGBV	sexual and gender-based violence
SGBV CU	Sexual and Gender-based Violence Crimes Unit (Liberia)
SOA	Sexual Offences Act (Kenya, Sierra Leone)
SOPs	standard operating procedures
TRCs	Truth and Reconciliation Commissions



UNDP	United Nations Development Programme
UNMIL	United Nations Mission in Liberia
UNFPA	United Nations Population Fund
UPDF	Uganda Peoples' Defense Forces
VSOs	Victim Support Officers (Liberia Sexual and Gender-based Violence Crimes Unit)
WACPS	Women and Children's Protection Section (Liberia National Police)
WHO	World Health Organization

# EXECUTIVE SUMMARY

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Tens of thousands of men and women were raped or sexually tortured during the war in Bosnia between 1992 and 1995.<sup>1</sup> During the 100-day genocide in Rwanda in 1994, thousands of women were raped or had their breasts or genitals mutilated.<sup>2</sup> From 1975–1979, Khmer Rouge cadres in Cambodia raped women and girls despite strict regulations against extramarital sexual relations and an entire generation of men and women were subjected to forced marriage.<sup>3</sup>

Acts of sexual violence committed during periods of armed conflict or political unrest are, first and foremost, crimes against the individual survivor. As such, they may be investigated and prosecuted locally under domestic penal or gender-violence laws that criminalize offences against the person. However, where these acts are committed specifically because, or as part, of an armed conflict or larger attack on a civilian population or plan to destroy a particular group of people, they may also constitute an international crime.

Since the 1990s, international courts have made progress in prosecuting military commanders and civilian officials for their roles in perpetrating sexual violence as a war crime, as a crime against humanity, and as an act of genocide. However, these international tribunals often operate at significant geographic and historical distance from the events in question. Not surprisingly, they have faced serious challenges in collecting evidence, access to witnesses, and establishing defendants' responsibility for acts they may not have personally committed. They may also have jurisdictional or practical constraints that limit the scope of events they can target.

For a host of reasons, accountability for international crimes of sexual violence depends largely on the response of *national* authorities. To address international crimes of sexual violence, domestic investigators and prosecutors must first be able to prove an underlying act of rape under the Rome Statute, for example, before they can be expected to establish the additional contextual elements that would make that act of rape a war crime, crime against humanity, or act of genocide.

Therefore, in order to appreciate the potential of local actors to provide accountability for *international crimes* of sexual violence, it is critical to first understand their day-to-day challenges in investigating and prosecuting sexual violence and the strategies used to overcome these challenges.

To this end, researchers at the Human Rights Center (HRC) at the University of California, Berkeley, School of Law, conducted a four-country study in Kenya, Liberia, Sierra Leone, and Uganda to identify key accountability barriers and strategies for reporting, investigating, and prosecuting cases of sexual violence. In addition to conducting desk research on the nature of sexual violence and accountability mechanisms in these countries, HRC researchers conducted a total of 279 semi-structured interviews with representatives of governments, UN agencies, and civil society organizations in Kenya (N=59), Liberia (N=115), Sierra Leone

(N=27), and Uganda (N=78). Researchers coded and analyzed the interviews to identify key themes related to the reporting, investigation, and prosecution of cases of sexual violence.

## The Study

To improve understanding of domestic-level accountability for sexual violence, the HRC conducted a four-country study from 2011 to 2014, focusing on Kenya, Liberia, Sierra Leone, and Uganda. The purpose of the study was to identify and describe major barriers and approaches to basic legal accountability for sexual violence in these four countries. Researchers' specific objectives were to

1. identify challenges and strategies related to *reporting* of sexual violence;
2. identify challenges and strategies related to *investigation* of sexual violence;
3. identify challenges and strategies related to *prosecution* of sexual violence; and to
4. gather relevant lessons learned during recent periods of armed conflict or political violence.

## Findings

Researchers' interviews resulted in the following findings on the reporting, investigation, and prosecution of sexual violence crimes.

### Reporting Crimes of Sexual Violence

Informants indicated that stigma associated with sexual violence, pressure from community and family members to settle cases informally, and preferences for community-based resolution prevent many survivors from reporting these acts to the police and the formal legal system. Some conflict-related factors exacerbated the challenge of coming forward. For example, rape committed by a member of a particular rebel, military, or ethnic group reportedly caused even greater stigma and social isolation for some survivors.

In addition, fear and limited awareness of legal rights, systems and available services can further inhibit survivors from filing cases.

Structural factors such as transportation challenges, cost of services, and distance to adequate health-care and police services are additional barriers to accessing health and legal systems. Conflict can create or exacerbate these barriers because of increased security and mobility challenges, damaged infrastructure, limited staffing at health facilities, and deprioritization of sexual violence cases by police and humanitarian organizations during emergencies.

Furthermore, informants across the study countries told researchers of their lack of confidence in law enforcement, which presumably hindered survivors' willingness to report their experiences. Researchers noted this problem particularly where police and state security forces had been implicated in mass violence, which leaves survivors with few safe channels for reporting.

These findings indicate that survivors need an enabling environment to seek accountability through the legal system. Strategies include long-term community sensitization and awareness efforts; use of radio, theater, and billboards to educate communities about sexual violence; and the engagement of a broad range of community actors in survivor support. Safe shelter is essential to ensure that survivors are protected not only when reporting but throughout their engagement in the legal process.

In addition, improving the ways in which cases of sexual violence are handled by community justice systems is essential to ensure that survivors have access to justice, particularly in communities without a formal court presence. Relevant strategies include training community leaders to refer sexual violence cases

to police and healthcare centers, developing gender-sensitive community practices for conflict resolution and survivor support, and harmonizing customary and statutory law.

Finally, this research highlighted the need to design programmatic responses that take into consideration exacerbated access challenges in emergency settings. Some strategies are structural: for example, locating sexual violence services within or close to communities, providing safe transport to health facilities that offer comprehensive post-rape care, and offering hotel accommodation near hospitals or courts in the absence of safe shelters. Other key strategies include providing survivors with accessible channels for reporting and receiving referrals, such as free hotlines and community-based volunteers who act as first responders or advocates.

### Investigating Crimes of Sexual Violence

Research highlighted the extent to which the collection of evidence in cases of sexual violence is a cross-sectoral effort beset with resource, capacity, and coordination challenges.

The health sector plays a crucial role in the collection of evidence, as healthcare workers are responsible for both documenting a survivor's physical condition and collecting physical evidence from the survivor's body. However, healthcare workers do not necessarily have an "evidence-collection" mandate and are often not sufficiently equipped or trained to do so. Healthcare workers' coordination with the police to transfer information or evidence is sometimes a further challenge.

Police capacity and willingness to investigate and collect evidence of sexual violence vary depending on resources, mandates, and training. It can be particularly difficult to ensure adequate police response in rural areas, where law enforcement resources and expertise are often spread thinly over vast territories. Research indicates an increasing trend toward the establishment of police units specializing in sexual and gender-based violence crimes in order to improve police competence and sensitization to such cases. However, the relative advantages of adopting specialized units warrant further evaluation.

Finally, in three of the four countries studied, researchers observed substantial discussion about, and aspiration to, increased use of DNA evidence in cases of sexual and gender-based violence.

Findings indicate that many of these evidence-collection challenges may be exacerbated in periods of armed conflict. Police and healthcare providers are frequently overwhelmed with emergency response and are less able than during peacetime to manage the complicated examination and investigation processes that sexual violence cases require. Finally, when the sitting government is believed to be implicated in perpetration of conflict-related violence, domestic investigation of these cases is especially unlikely.

### Prosecuting Crimes of Sexual Violence

According to interviewees, a primary challenge to prosecution of sexual violence crimes is rooted in the investigation stage: insufficient evidence—be it documentary, physical, or testimonial—hampers effective prosecution. This is true in all kinds of criminal cases, but it is particularly true in cases of sexual violence. Scarcity of evidence or eyewitness testimony to what is often a private crime, stigma and community pressures that dissuade survivors from cooperating with the prosecution, and lack of witness protection measures and in-court support—which permits survivors and expert witnesses to be intimidated—can all detract from prosecutors' ability to secure convictions.

In addition to developing specialized police units focused on sexual and gender-based violence, some case study countries have developed specialized prosecution teams to varying degrees, ranging from a largely

autonomous unit in Liberia to ad hoc teams of expert attorneys in the Directorates of Public Prosecution (DPPs) in Kenya and Uganda.

Despite development of these specialized prosecution teams, researchers did not detect any successful efforts by state prosecutors to try *conflict-period* sexual violence in domestic courts. Although national truth commissions and commissions of inquiry in the four countries have retrospectively addressed sexual violence that occurred during conflict periods, they could not themselves prosecute and convict perpetrators. Thus far, the only observable efforts to bring conflict-period sexual violence into national courts have been initiated by civil society organizations. Their efforts include constitutional litigation in Kenya and the work of a Liberian human rights group to build cases for prosecution abroad.

## Considerations for International Crimes of Sexual Violence

This research highlighted five key considerations for domestic accountability for sexual violence committed as an international crime.

1. *Improving survivors' ability to report crimes of sexual violence committed during emergency periods can promote accountability for international crimes of sexual violence later.* This is because basic reporting barriers such as social perceptions of sexual violence, lack of security or mobility, and even fear of the authorities can impede not only survivor access to care, but also the collection of evidence for later prosecution, as well.
2. *Witness protection is a daunting, but essential, task that may require new approaches in cases of international crimes.* While providing safety to sexual violence survivors during peacetime is already a challenging proposition, sheltering them from armed groups during conflict periods can pose new levels of security risk. Moreover, risk may persist—or even increase—well into the future if there is later threat of prosecution. More thinking is needed about ways to protect survivors and other witnesses who testify about war crimes, crimes against humanity, and acts of genocide. Such cases may require specific shelter interventions because accused parties are likely to be armed or politically powerful. Also, in cases of mass atrocity, there may be multiple witness and survivors to protect at a time.
3. *The health sector plays a critical role in response to, and accountability for, conflict-period sexual violence.* Nurses, doctors, and other healthcare providers often treat survivors of sexual violence during periods of armed conflict; their documentation of these injuries are vital sources of evidence—even in cases of sexual violence committed as an international crime. For example, medical records can be aggregated to form a picture of the type of violence affecting an entire community. If patterns emerge, this may form valuable evidence of a crime against humanity. However, as discussed later in this report, the expectation that medical and humanitarian care providers act as evidence-collectors raises important ethical questions.
4. *The emergence of specialized health, police, prosecution, and judicial units has potential to optimize accountability for sexual violence as an international crime.* These units can produce a high degree of expertise among a small pool of practitioners, though their impact warrants further evaluation. Also, where units for sexual and gender-based violence exist on one hand and for international crimes on the other, collaboration should help address the intersecting issue of sexual violence as an international crime.
5. *Donors focused on sexual violence committed during conflict periods can help sow the seeds for longterm domestic response.* Research indicated a perceived need to fund programming for sexual

and gender-based violence support services and accountability efforts, generally, while also integrating civil society efforts into existing community and government structures, to promote their sustainability in case private donor support declines. Further, donors are well positioned to promote vital efforts to coordinate response across health, police, and legal sectors.

## **Recommendations**

Though not all survivors of sexual violence wish to engage the formal justice system, it is imperative that the legal process work well for those who do seek accountability in this way. At a minimum, this requires sensitive, survivor-centered approaches that offer support and protection throughout the reporting, investigation, and prosecution stages. Domestic actors from across health, legal, judicial, and community sectors bear the greatest responsibility and potential for responding to survivors' claims of sexual violence both during and after periods of armed conflict and other emergencies.

Based on these findings, the Human Rights Center makes the following recommendations:

### *To Legislators:*

1. Domesticate the Rome Statute, if this has not already been done. Reconcile domestic gender-violence laws with Rome Statute definitions and provisions. Clearly designate a judicial venue to have jurisdiction over international crimes and facilitate that chamber's operation.
2. Support legal aid for the indigent or otherwise marginalized. Allocate resources within national budgets for new and existing legal aid programs to increase access to justice, particularly in rural areas where services are often limited.
3. Pass legislation that mandates meaningful witness protection for those testifying in cases of sexual violence or international crimes. Kenya's Witness Protection Agency is an example of one attempt to create a national witness protection program.

### *To Ministries of Health:*

1. Allocate sufficient resources within the ministry budget to address sexual violence to reduce donor dependence and ensure sustainability. To assess resource needs, include sexual violence in the ministry's national data collection efforts, and incorporate sexual violence into health sector strategic plans.
2. Train healthcare providers in the provision of comprehensive clinical care for sexual violence. Training should be based on national guidance where available, should include specific evidence-collection skills, and should be integrated into regular curricula at health training institutions. Strengthen efforts to train providers at local health centers to increase access to care beyond hospitals.
3. Coordinate with local organizations and groups providing assistance to sexual violence survivors to develop appropriate training materials and adequate response and referral mechanisms to and from health care facilities.
4. Develop special clinical management and psychosocial support protocols that respond to the needs of child and male survivors of sexual violence. Integrate these procedures into national guidance, training materials, and program design.

5. Address barriers to health providers' participation as expert witnesses in trials, including coverage of transportation costs, necessary time off, and adequate preparation to testify and understand court processes.
6. Facilitate dialogue among health policymakers, healthcare providers, prosecutors, and law enforcement to identify mechanisms and measures that healthcare providers can take to collect, document, and store evidence in emergency contexts. Develop context-specific, survivor-centered protocols regarding priority evidence that should be collected and stored for future investigations. The provision of post-rape care in emergency settings should be integrated into the ministry's national guidelines, training, and planning.

*To Ministries of Justice:*

1. Develop and implement witness protection and support measures, including *in camera* testimony, name redaction, and victim accompaniment. Improve court practice through judicial guidance where necessary. Allocate sufficient resources within the Ministry budget to support implementation of these procedures. Address specific support needs of particularly vulnerable victims and witnesses, such as children.
2. Support the evaluation of specialized courts or chambers that adjudicate crimes of sexual violence. Develop reasonable metrics that do not focus exclusively on numbers of convictions.
3. Identify the appropriate domestic venue for the adjudication of international crimes and provide relevant judges with ongoing training in international criminal law, including that relevant to sexual violence as an international crime.

*To Ministries Responsible for Gender Affairs:*

1. Organize and support cross-sectoral training for healthcare providers, law enforcement, and prosecution units on the sensitive collection of evidence required to prove crimes of sexual violence, including sexual acts committed as a war crime, a crime against humanity, and an act of genocide. Training curricula and materials should address and clarify any disparities between current gender-violence laws and Rome Statute provisions on sexual violence.
2. Allocate specific budget lines to support development of safe shelter programs to meet the protection needs of survivors, particularly those who agree to report and follow through with the legal process.<sup>4</sup>
3. Improve referral and coordination by mapping available services within communities and by identifying and/or developing clear referral pathways for medical care, psychosocial support, police, legal aid, safe shelter, and other support services. Disseminate this information to key actors and the public and hold convenings that strengthen cross-sectoral partnerships.

*To Heads of Law Enforcement:*

1. Improve police capacity and sensitization to respond to domestic and international crimes of sexual violence by incorporating both topics into the core curricula at police academies, monitoring for competence, and providing periodic refresher courses to all ranks of officers.
2. Develop clear guidance tools on the sensitive investigation of crimes of sexual violence, including international crimes of sexual violence.



3. Allocate funds for basic materials and equipment required for the investigation of sexual violence and other crimes.
4. Facilitate processes through which officers in specialized gender-based violence police units can support non-specialized police officers in responding to cases of sexual and gender-based violence in areas beyond the reach of the specialized units.
5. Cross-train specialized police units that focus on either sexual and gender-based violence or international crimes. Establish mechanisms that enable joint investigations and consultation between such units in future emergency periods. Establish guidelines by which non-specialized police officers can refer possible sexual and gender-based crimes or international crimes to relevant special units.
6. Develop guidance for investigation of sexual violence committed against members of specific populations, including children (boys and girls), men, and refugees and other forcibly displaced persons. Guidance should include sensitive interviewing techniques and should be incorporated into police training institutions to improve competence.
7. Facilitate evaluation of the role, capacity, and impact of specialized police units focused on sexual and gender-based violence. Review the ways in which specialized police units relate to the rest of the national police force to identify points of collaboration and mutual support.

*To Chief Prosecutors and Directors of Public Prosecution:*

1. Work closely with investigators to plan sexual violence investigations according to evidentiary requirements and provide immediate feedback on initial dossiers. Provide ongoing feedback on the quality of witness statements and forms completion to help police officers and healthcare providers improve their future statement-taking and case documentation.
2. Consider collaboration with civil society attorneys with expertise in sexual violence cases, possibly permitting them to co-counsel with state prosecutors or otherwise support sexual violence trials.
3. Facilitate cross-training of specialized units focused on sexual and gender-based violence crimes and international crimes, and enable resource sharing. Establish mechanisms that enable joint prosecution of future international crimes of sexual violence.
4. Enable specialized prosecution units, where they exist, to interface regularly with non-specialized prosecutors for training and exchange on sexual violence and international crimes, particularly in rural areas.
5. To the extent permitted, support expert witnesses by preparing them to testify in court.

*To Non-Governmental Organizations and Civil Society Organizations Addressing Sexual Violence*

1. Seek out domestic and international partnerships to build coalitions and maximize resources and political momentum when seeking innovative litigation and prosecution of conflict-period sexual violence.
2. Implement programs, campaigns, and activities aimed at changing social norms to reduce stigma and otherwise create an enabling, supportive environment for survivors to report sexual violence.
3. Develop creative strategies to overcome structural barriers to reporting sexual violence. In conflict settings, given additional security and mobility challenges, sexual violence responses should focus on facilitating immediate access to care and support.



4. Work closely with community leaders, elders, and other community justice actors to develop gender-sensitive community justice processes; establish clear referral pathways to healthcare, police, and legal services; and clarify the relationship between the formal and informal justice systems.

### **Recommended Cross-Sectoral Actions**

#### *To Civil Society and Government Entities Focused on Sexual and Gender-Based Violence:*

1. Develop standard operating procedures and cross-sectoral training based on procedures that address survivor support, collection of evidence, and legal process requirements for healthcare providers, forensic analysts, police, prosecutors, and judges within communities. Training and procedures should include special measures for response during periods of conflict or other emergency.
2. Harmonize healthcare and police processes related to documentation of sexual violence and clarify relevant procedures for their completion and use. Disseminate information and raise awareness among key actors about who can conduct a forensic examination, complete the examination forms, and testify in court.

#### *To Humanitarian Actors and National and Local Governments:*

1. Develop closer collaboration and coordination on work plans, budgeting, and activities related to sexual violence response to ensure adequate coverage, reduce duplication of services, and build long-term capacity.
2. Humanitarian actors should partner with local government authorities and community leadership structures to ensure sustainability of sexual violence response mechanisms.

#### *To Donors and United Nations Agencies:*

1. Support cross-sectoral convenings and trainings that improve maintenance of the “chain of custody” of evidence in sexual violence cases, inviting representation from health, law enforcement, forensic, prosecution, and judicial sectors.
2. Support training on domestic and international sexual violence crimes for both specialized and non-specialized investigators, prosecutors, and judges, since any of these groups may be called upon to respond to these crimes in times of emergency.
3. Fund further research on the following topics:
  - a) The use of evidence in sexual violence cases brought both under domestic penal or gender-violence laws or under international crimes laws.
  - b) The rigorous evaluation of specialized units focused on sexual and gender-based violence and international crimes.
  - c) The need for, and availability of, witness support and protection measures in cases of sexual violence.
  - d) The identification of service needs of specific groups of sexual violence survivors, including children and men.
  - e) The evaluation of interventions to prevent sexual violence in humanitarian settings.

# INTRODUCTION

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Wartime sexual violence occurs in many forms. It may manifest as mass rape, forced sterilization, and even such often-overlooked harms as intimate partner violence and sexual assault by neighbors.<sup>5</sup> Sexual violence during wartime can be used as a deliberate weapon of war, or it may be inflicted for non-strategic, opportunistic reasons. While the International Criminal Court (ICC) and other international tribunals have pursued diverse cases of sexual violence that constitute war crimes, crimes against humanity, and acts of genocide, their success often has been limited by the difficulties of collecting and preserving evidence and protecting witnesses.

In truth, accountability for international crimes of sexual violence depends largely on *domestic* systems. That is not only because of the principle of complementarity, which posits that the ICC and national governments should work hand in hand to address the full spread of international crimes committed in a given situation, but also for pragmatic reasons.

First, domestic actors are closer to the evidence, the witnesses, and the direct perpetrators, the vast majority of whom are not the high-level commanders typically targeted by the ICC. Assuming there is no political interference in the process, local investigators and prosecutors should have more access to case material than international entities do.

Second, domestic actors may have more flexibility to pursue international crimes of sexual violence. If a country has ratified and domesticated the Rome Statute of the ICC,<sup>6</sup> its authorities can prosecute an act of sexual violence committed as a war crime, as a crime against humanity, or as an act of genocide. Or, if it is not feasible to gather evidence of all the contextual conflict elements that the Rome Statute requires, authorities can at least prosecute the direct act of sexual violence using local laws criminalizing sexual offenses.

Ultimately, though, the likelihood that international crimes of sexual violence will be prosecuted at the local level depends on the capacity of domestic systems to support effective reporting, investigation, and prosecution of sexual violence—even long after a period of armed conflict or emergency has ended. Therefore it is critical to understand day-to-day challenges and strategies arising in the process of generating accountability for sexual violence cases at the local level so that practices can be improved to increase access to justice for survivors of conflict-period sexual violence as well.

## The Study

From 2011 to 2014, researchers from the Human Rights Center (HRC) at the University of California, Berkeley, School of Law conducted a study of domestic accountability systems serving survivors of sexual violence in four countries: Kenya, Liberia, Sierra Leone, and Uganda. The study examined the ways in which

health professionals, law enforcement personnel, prosecutors, and judges responded to cases of sexual violence committed during or in the aftermath of armed conflict or periods of political violence. To shed light on ground-level realities, the inquiry focused on cross-sectoral processes at three critical stages of case development in a common law system: reporting, investigation, and prosecution.

## Objectives

The purpose of the study was to identify and describe major barriers and potential approaches to legal accountability for sexual violence in the four countries. Researchers' specific objectives were to

1. identify challenges and strategies related to *reporting* of sexual violence;
2. identify challenges and strategies related to *investigation* of sexual violence;
3. identify challenges and strategies related to *prosecution* of sexual violence; and to
4. gather relevant lessons from recent periods of armed conflict or political violence.

## Methods

The study was conducted from 2011 to 2014 and included three phases: (1) desk research; (2) exploratory research in Kenya to inform study design; and (3) semi-structured interviews with key informants in the health and legal sectors and in women's rights organizations in Kenya, Liberia, Sierra Leone, and Uganda.

These four countries were selected as case studies because of their diverse political and historical contexts, the varied nature and duration of their most recent crisis periods, and their differing stages of development with respect to sexual violence response.<sup>7</sup>

Desk research included a review of academic, governmental, and non-governmental organization (NGO) literature on the history and context of the conflicts, the nature of sexual violence during and after the conflicts, and accountability and support mechanisms available in each country of study.

HRC researchers also conducted exploratory research in Kenya in 2010 and 2011. Interviews with key informants led to collaboration with local partners to convene a three-day workshop in May 2011 that brought together government and civil society actors from relevant sectors to identify challenges and opportunities for improving the implementation of Kenya's 2006 Sexual Offences Act (SOA). These discussions informed the HRC's development of a conceptual framework for exploring accountability for sexual violence and the development of a semi-structured interview guide.

Fieldwork was conducted in Liberia in March 2012, August 2012, and August 2013; in Uganda in January 2013, September 2013, and November 2013; in Sierra Leone in February 2014; and in Kenya in March 2014. Observations about accountability processes are generally limited to systems and responses in place during these times.

Interview sites included Kisumu, Nakuru, and Nairobi in Kenya; Monrovia, Paynesville, Owensgrove District, Kakata, Totota, Gbarnga, Ganta, and Saclepea in Liberia; Freetown, Port Loko, and Kenema in Sierra Leone; and Gulu and Kampala in Uganda. Sites were purposively selected to provide insights into accountability options in the best-resourced or centralized urban capitals as well as in relatively rural cities and towns that were directly affected by conflict-related violence. This coverage permitted observation of disparate resourcing and relationships among service providers in urban and rural settings.

A total of 279 semi-structured interviews were conducted with government officials and representatives of United Nations agencies, NGOs, and civil society organizations in Kenya (N=59), Liberia (N=115), Sierra Leone (N=27), and Uganda (N=78). Study participants were selected through purposive sampling based on their roles or expertise within organizations and institutions involved in sexual violence response during

and/or after the crisis periods. Sampling was designed to include policymakers and practitioners working in healthcare, law enforcement, the judiciary, prosecution units, community-based organizations (CBOs), and traditional justice systems. (For a complete list of organizations represented by key informants, see appendix.)

Researchers used a semi-structured interview guide to explore key challenges in the reporting, investigation, and prosecution of sexual violence as well as strategic policies, programs, and practices implemented by the United Nations, governments, and civil society actors to address these challenges. Researchers asked study participants about the mandate and function of their organization or governmental unit regarding sexual violence; major challenges and strategies relevant to their own work on sexual violence cases; and their broader views on barriers to effective reporting, investigation, and prosecution. In interviews with key informants involved in addressing sexual violence during conflict periods, researchers also explored conflict-specific challenges and relevant strategies employed during those time periods.

Most interviewees consented to audio-recorded interviews. If consent was not provided, researchers relied on detailed handwritten notes. They coded and analyzed interview notes to identify key themes in each stage of the accountability process: reporting, investigation, and prosecution.

## Limitations

This study highlights barriers to accountability based on the perspectives of key actors involved in responses to sexual violence. These experts on various stages of the legal accountability process are directly engaged in its challenges and strategies, and thus researchers aimed to capture their insights.

Researchers did not interview survivors of sexual violence due to numerous safety concerns and potential risks to survivors' well-being. Survivors' insights into their personal experiences of access to justice through the legal system would provide valuable perspectives, however, and should be sought in future studies if sufficient protective mechanisms are in place to maintain survivors' anonymity and respond to their service and security needs.

Thus, study findings related to challenges experienced by *survivors* are based on key informants' observations and service experiences. While a wide variety of key informants who had an array of forms of direct and indirect contact with survivors were interviewed, their perspectives cannot offer the same depth of insight or level of detail as could be offered by survivors.<sup>8</sup> Nonetheless, the findings do offer descriptions of recurrent and differing experiences of survivor-specific issues that are based on a range of accounts by informants in each of the four study countries.

The outbreak of the Ebola crisis in 2014 prevented researchers from making a second trip to Sierra Leone, and thus data collection in that country was limited.

The majority of interviews were conducted in capital cities. In each country, a limited number of non-capital areas affected by conflict and mass violence were selected for further study. Sites with a relatively high volume of sexual violence programming were prioritized, as they were more likely to offer a wider breadth of experience. These areas are not necessarily representative of conflict-affected regions throughout each country. Challenges to justice may be more acute in areas with fewer intervention activities and may differ in terms of types of responses available.

Conflict- and emergency-period information was sourced only from interviews with those actors who remained within each region and whom researchers could access. In many cases, individuals who had worked with organizations during these periods had transferred to other organizations or locations. This was particularly the case in Liberia and Sierra Leone, where the conflicts in question ended over ten years

ago. The retrospective nature of this component of the study may negatively impact the quality of its data on sexual violence response during conflict periods. Researchers tried, where possible, to corroborate accounts with contemporaneous literature or multiple interviews.

Data are also context-specific and thus not necessarily generalizable to larger populations or regions beyond those included in this study. However, researchers identified several recurrent themes regarding challenges to generating accountability for sexual violence in conflict-affected areas, and highlight promising strategies that require further research and evaluation.

## **This Report**

This report provides the first bird's-eye view of the interrelated systems that determine accountability for sexual violence in Kenya, Liberia, Sierra Leone, and Uganda.

It first presents brief country profiles, introducing each case study country, the relevant period of armed conflict or political unrest in each country, and the various forms of sexual violence that occurred during and after that period. Next, the report presents the researchers' findings, organized by the three stages of the accountability process: reporting, investigation, and prosecution. The report then discusses considerations for the process of domestic accountability for international crimes of sexual violence.

Finally, this report closes with concrete recommendations on measures that can improve survivors' ability to report crimes of sexual violence as well as formal health and legal systems' ability to effectively participate in investigation and prosecution of these cases.

## DEFINITIONS AND CONCEPTUAL FRAMEWORK

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In this report, *accountability* refers to the processes used to hold individuals legally responsible for criminal acts such as sexual violence.

By *sexual violence*, this report refers to a distillation of definitions offered by the World Health Organization (WHO), the ICC's Elements of Crimes, and various UN documents, to mean *an act of a sexual or simply genital nature committed against someone through coercion or an effort to force a person to commit such an act against another*.<sup>9</sup> It can take many forms, including rape, genital mutilation, sexual slavery, and forced sterilization. It can be committed against men, women, and children.

Sexual violence is a form of *gender-based violence*. We focus on this subset of harms because sexual and genital violations committed during armed conflict and other periods of mass violence are increasingly addressed as potential international crimes.

At times, this report uses the term *sexual and gender-based violence* when referring to an organization or other entity whose mandate is more broadly defined than dealing with sexual violence alone.

This report uses the term *conflict* primarily to refer to periods of mass violence involving armed actors. This generally reflects definitions set forth in Common Article 2, Common Article 3, and Article 1 of Additional Protocol II of the Geneva Conventions, which include international armed conflicts (in which two or more states are opposed) and non-international armed conflicts (among governmental forces and non-governmental armed groups, or within such groups only).<sup>10</sup> However, the term as used in this report also includes other periods of mass political violence involving armed actors that may not technically constitute “armed conflict” per the Geneva Conventions.

The term *conflict-related sexual violence* commonly refers to acts that are committed against women, men, or children and that have a direct or indirect link (whether it is temporal, geographical, or causal) to a surrounding armed conflict. When an act of sexual violence committed during a period of armed conflict fulfills a military or strategic objective related to that conflict in whole or in part, it may also constitute a war crime, a crime against humanity, or an act of genocide under the Rome Statute of the International Criminal Court.

However, much of the sexual violence occurring in areas affected by armed conflict seems not, in fact, to be driven by military or strategic aims. Recent studies indicate that vast numbers of women in conflict-affected areas continue to suffer day-to-day forms of sexual violence, such as intimate partner violence.<sup>11</sup> For this reason, this report uses the term *conflict-period sexual violence* to capture both sexual violence committed by armed actors in furtherance of a military objective and day-to-day or “opportunistic” sexual violence committed without greater strategy—perhaps by an errant soldier, inebriated stranger, or abusive spouse.

For purposes of discussing legal accountability, this report refers to two kinds of sexual offences: acts of *sexual violence, generally*, as criminalized under domestic penal or gender-violence laws, and *international crimes of sexual violence*.

*International crimes of sexual violence* or *sexual violence as an international crime* refers to acts of a sexual nature that comprise war crimes, crimes against humanity, or acts of genocide as defined by the Rome Statute of the International Criminal Court.<sup>12</sup> The following table illustrates how specific sexual acts can constitute various international crimes, if they are committed under certain circumstances or in certain contexts.

### International Crimes of Sexual Violence under the Rome Statute

Below are examples of crimes of sexual violence that may constitute international crimes under the Rome Statute.

Acts*	<i>May Be a Crime against Humanity If . . .</i>	<i>May Be a War Crime If . . .</i>	<i>May Be an Act of Genocide If . . .</i>
<p>Rape; sexual slavery; enforced prostitution; forced pregnancy; enforced sterilization; and other forms of sexual violence</p> <p>Also, enslavement; torture; persecution; inhumane acts; and inhumane treatment</p>	<ol style="list-style-type: none"> <li>1. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.</li> <li>2. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population (Rome Statute, Art. 7).</li> </ol>	<ol style="list-style-type: none"> <li>1. The conduct took place in the context of and was associated with an international armed conflict.</li> <li>2. The perpetrator was aware of the factual circumstances that established the existence of an armed conflict (Rome Statute, Art. 8).</li> </ol>	
<p>Causing serious bodily or mental harm; deliberately inflicting conditions of life calculated to bring about physical destruction; imposing measures intended to prevent births</p>			<ol style="list-style-type: none"> <li>1. If committed with intent to destroy, in part or in whole, a national, ethnic, racial, or religious group.</li> <li>2. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction (Rome Statute, Art. 6).</li> </ol>

\* The Rome Statute defines each crime separately. Elements of the action and the perpetrator's intent must be proved to establish that such a crime occurred. See the appendix for full definitions.

After proving the occurrence of the specific criminal act, a prosecutor must connect the crime committed to the accused party by establishing the “mode of liability,” or the type of responsibility that the defendant bears. The accused bears “direct responsibility” if he or she committed (directly or indirectly), ordered, solicited, induced, aided and abetted, or otherwise contributed to the commission of the crime (by action or omission). Direct responsibility is also borne when a group has jointly committed the specific criminal act with a common purpose.

Alternatively, an accused may be culpable via “command” or “superior” responsibility. Broadly speaking, this responsibility can be proven if the accused is a military or civilian commander who is shown to have had effective “command and control” or authority over subordinates; to have known or disregarded the fact that subordinates were committing the crimes in question; and to have failed to take reasonable measures to prevent the crimes’ commission, punish the perpetrators, or submit the matter to competent authorities for investigation.

This study explores legal accountability for *all* these forms of sexual violence. After presenting basic challenges and strategies related to accountability for day-to-day sexual violence, this report highlights specific considerations for improving domestic investigation and prosecution of sexual violence as an international crime.



# The Road to Accountability for Sexual Violence

## Reporting

## Investigation

## Prosecution



The road to accountability for sexual violence through the formal justice system has several steps, which may or may not be fully completed or performed in a consistent order. Though simplified, this diagram captures the ideal progression of a survivor's case through the major phases of legal accountability as it is envisioned in many common law jurisdictions. This study explores the challenges and strategies arising within and among these stages.

**A survivor may step into the formal justice system in several ways.**

**Community:** She reaches out to her community to be connected with authorities.

**Civil Society:** She goes to a local organization focused on women's rights, reproductive health, or legal rights. The group supports her and helps her report her experience or seek medical care.

**Health:** She receives medical care, testing, and psychosocial support. Healthcare staff may help her report to the police.

**Police:** She tells the police what happened and asks for help. The police record the report, ensure that she is not in immediate danger, and, where appropriate, try to find the alleged perpetrator for questioning. Police may refer her to healthcare services for care and examination.

*If the survivor wishes to file a complaint and pursue a legal case against her attacker, these entities should help her move to the next step: Investigation.*

**Evidence is collected by the police and, where appropriate, by healthcare professionals.**

**Health:** When providing post-rape care, the authorized healthcare provider may also examine the survivor's body, document findings with health authorities or the police, and collect forensic specimens.

**Police:** The police interview the survivor and take her statement. They examine the crime scene and seek out witnesses. The police may take photographs to document relevant details of the location. The case file – including any medical documentation, witness statements, and description of physical evidence – is transmitted to the prosecutor for review.

**Forensic:** Where the capacity for forensic analysis exists, the forensic laboratory may later be asked to analyze any specimens received. The lab report is transmitted to the police or prosecutor for consideration.

**Civil Society:** Civil society organizations continue to provide counseling, shelter, or legal aid.

**Next, a prosecutor evaluates the case file and prepares for court. The case goes to trial.**

**Prosecutor:** The prosecutor evaluates the police file, determines whether sufficient evidence exists. If so, the prosecutor decides what charges to file with the court. In court, the prosecutor establishes facts of the case, examines witnesses, and presents evidence and legal arguments to the court.

**Defense Counsel:** The lawyer representing the accused person also prepares and submits evidence, then examines witnesses to establish the accused person's innocence. Defense counsel should ensure that the accused's rights to fair trial are protected.

**Judiciary:** The Judiciary is represented by the judge, jury, and court staff. The judge presides over a case by administering rules governing the trial process. Civil society organizations may directly or indirectly support a survivor during the court process.

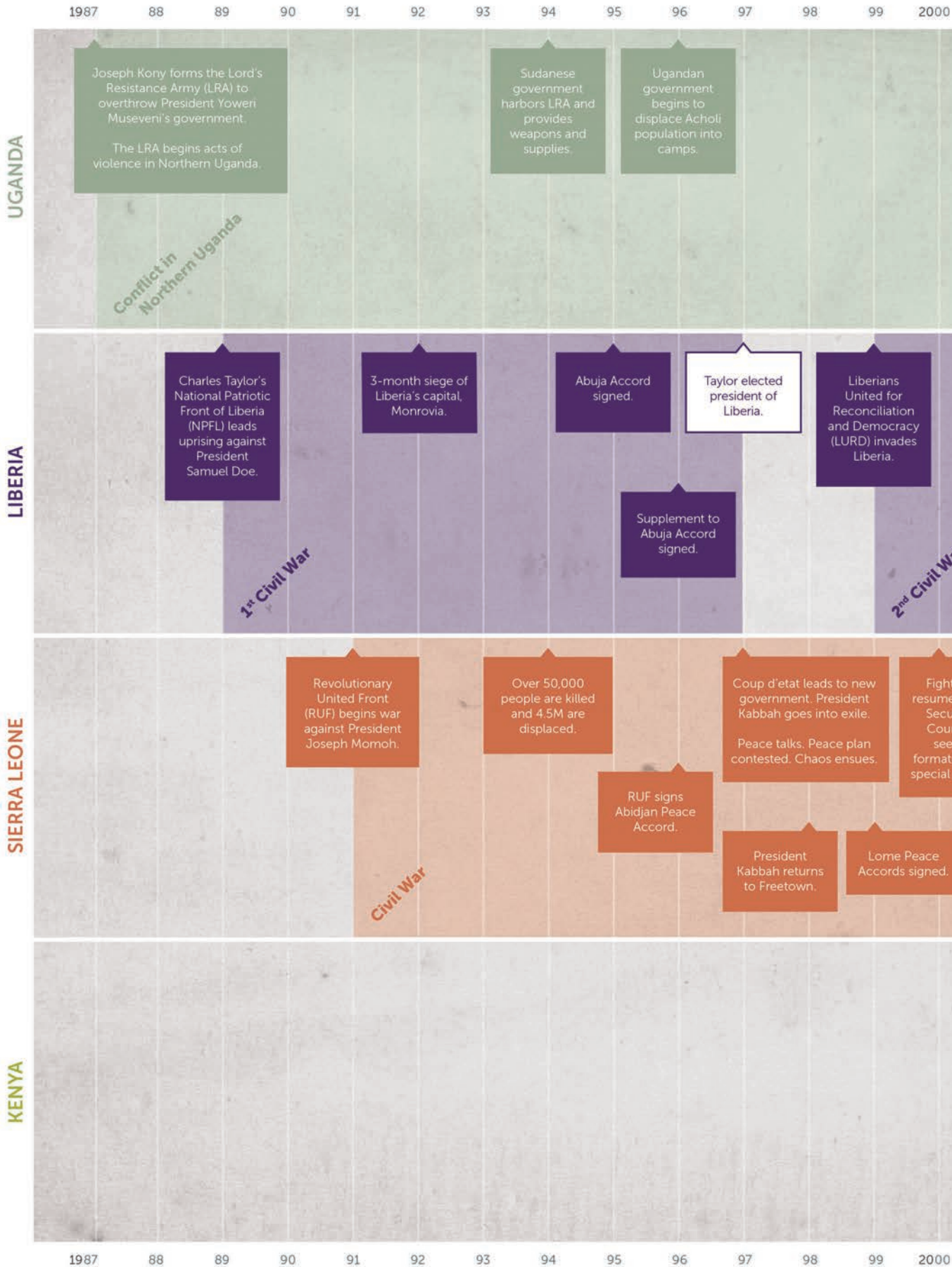
**Health:** The healthcare provider may testify in court about forensic examination results as documented in the medical report.

## THE CASE STUDY COUNTRIES

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Conflicts referenced in this study are the violence in Northern Uganda (1986–2006), Liberia’s back-to-back civil wars (1989–96 and 1999–2003), Sierra Leone’s civil war (1991–99), and Kenya’s brief 2007–08 post-election violence. This section provides a short overview of major relevant events in each conflict and a description of sexual violence committed during these periods.

# OVERVIEW OF THE CONFLICT PERIODS



01 02 03 04 05 06 07 08 09 10 11 12 13

Ugandan army attacks LRA in Southern Sudan. LRA flees into Northern Uganda.

Uganda refers prosecution of LRA leadership to International Criminal Court.

Over 1.8 million IDPs live in 251 camps at peak of conflict. ICC issues arrest warrants for Kony and LRA commanders.

Ugandan government and LRA sign Cessation of Hostilities Agreement.

President announces closure of IDP camps by year's end.

Nearly 100,000 people leave the IDP camps.

Official establishment of International Crimes Division (ICD) of Uganda's High Court.

Siege of Monrovia. Taylor exiled. Accra Comprehensive Peace Agreement signed. Taylor indicted for crimes committed in Sierra Leone.

Truth and Reconciliation Commission notes sexual violence during conflict.

Kabbah declares war over, signs agreement for war crimes court in Freetown.

From 2004-2012, the Special Court for Sierra Leone tries and convicts rebels and former Liberian president Charles Taylor of crimes including sexual slavery, forced marriage, and the conscription of children.

Truth and Reconciliation Commission notes rampant sexual violence, produces child-friendly report.

Election results favor incumbent president Kibaki. Opposition protests. Hundreds die in initial violence.

"Waki Commission" notes sexual violence, recommends special domestic tribunal.

ICC confirms charges against four of six accused. Cases are ongoing.

Parliament votes against special domestic tribunal.

Presidential election. Former opponents declared president and deputy president.

New waves of violence. Over 1000 people die and 250,000 are displaced.

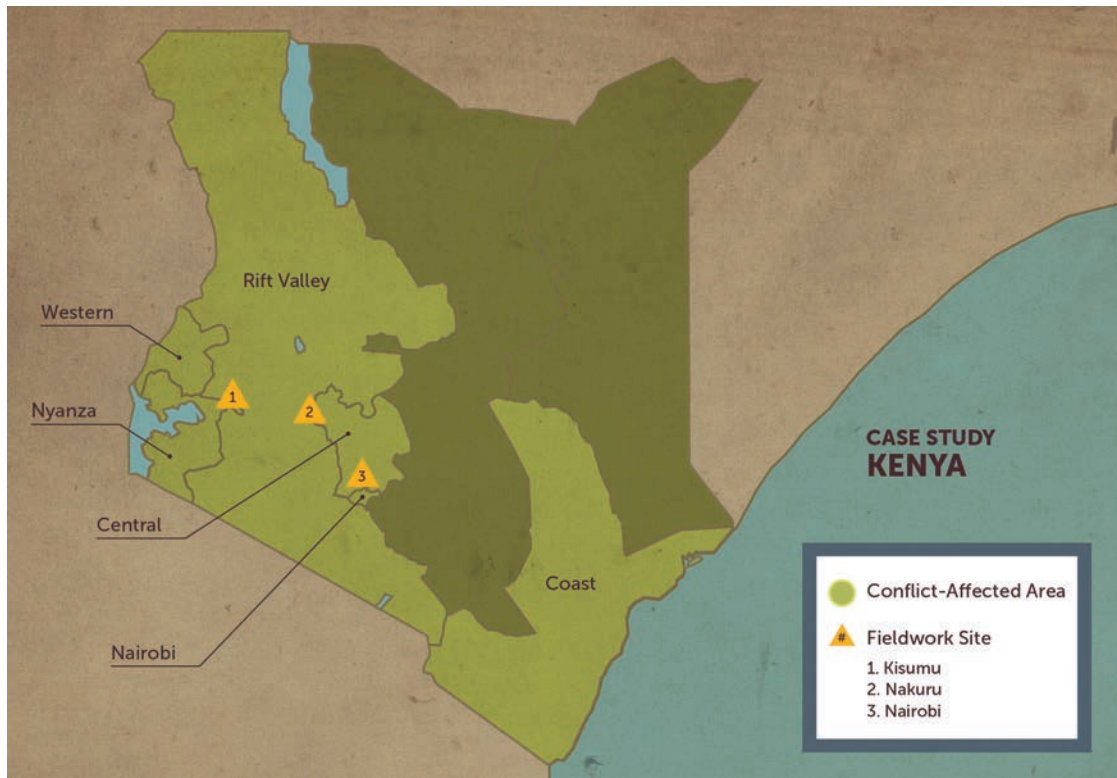
ICC Prosecutor initiates preliminary investigations.

ICC Prosecutor requests summons of six Kenyans, including son of Kenya's first president.

**2007-2008 Post-Election Violence**

01 02 03 04 05 06 07 08 09 10 11 12 13



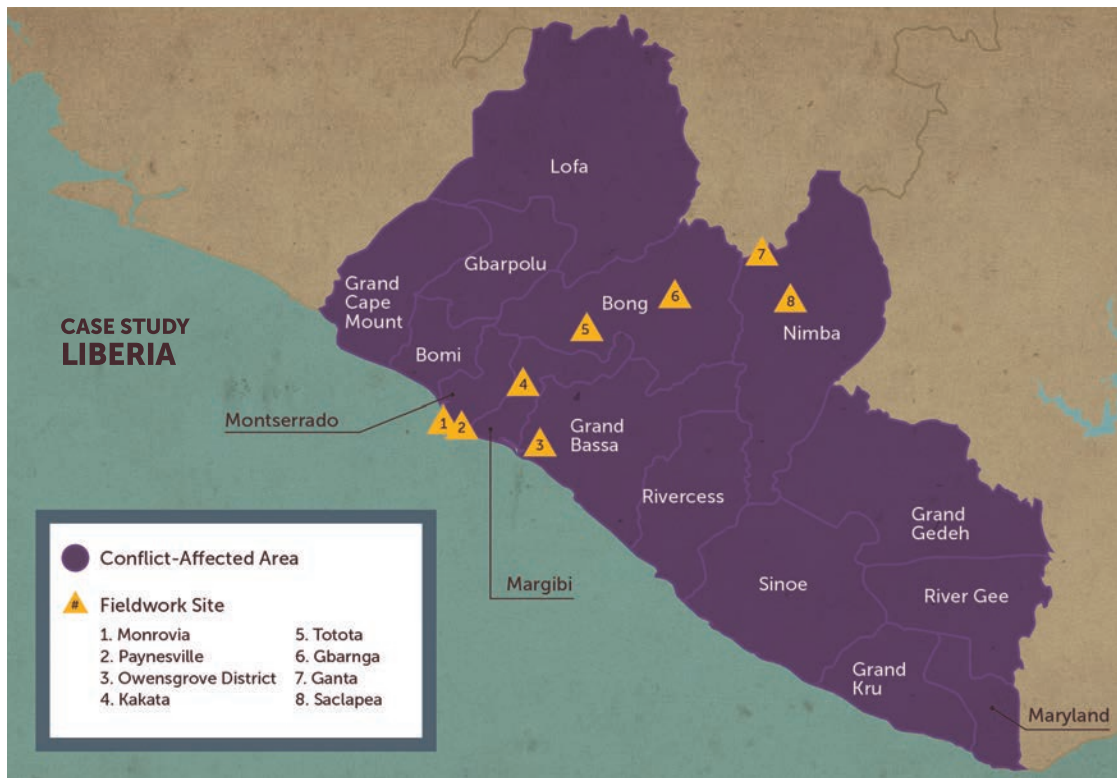


## Kenya

The violence that engulfed Kenya between December 2007 and late February 2008 arose immediately after the release of contested election results that declared incumbent President Mwai Kibaki the winner of the presidential election. Violent clashes erupted among political groups, divided largely along ethnic lines. More than twelve hundred people were killed and some six hundred thousand were displaced as a result of the post-election violence.<sup>13</sup>

Sexual violence is believed to have increased significantly throughout Kenya in the wake of the 2007 election. Media and survivor accounts point to particularly high incidences of sexual violence in conflict hotspots such as Nairobi, Naivasha, Nakuru, Burnt Forest, Eldoret, and Kisumu. However, there remains a lack of clarity regarding the nature of the sexual violence that occurred. According to a survey conducted in 2011, unlike the sexual violence generally seen in other conflicts, which is often characterized by gang rape, post-election sexual violence in Kenya was most commonly “single-person rape, molestation and genital mutilation overwhelmingly perpetrated by men and, to a lesser extent, women who were affiliated with a government or political group(s).”<sup>14</sup> However, a more recent study by Physicians for Human Rights involved a review of medical records of sexual assault cases at health facilities in post-election violence-affected areas from 2007–2011. The study identified an increase in the number of cases in which survivors did not know the perpetrator and in the cases involving more than one perpetrator during the post-election violence period.<sup>15</sup>

According to the government-established Commission of Inquiry into Post-Election Violence, more than nine hundred cases of sexual violence were reported throughout the country during the emergency period, and evidence suggests that even more instances went unreported.<sup>16</sup> Between December 27, 2007, and February 29, 2008, as many as 322 women and girls who had experienced sexual violence and/or rape were admitted to Nairobi’s Women’s Hospital alone.<sup>17</sup> Although sexual violence against women was more likely to be reported, men, too, experienced forms of it,<sup>18</sup> including sodomy, forced circumcision, and mutilation of their penises.<sup>19</sup>



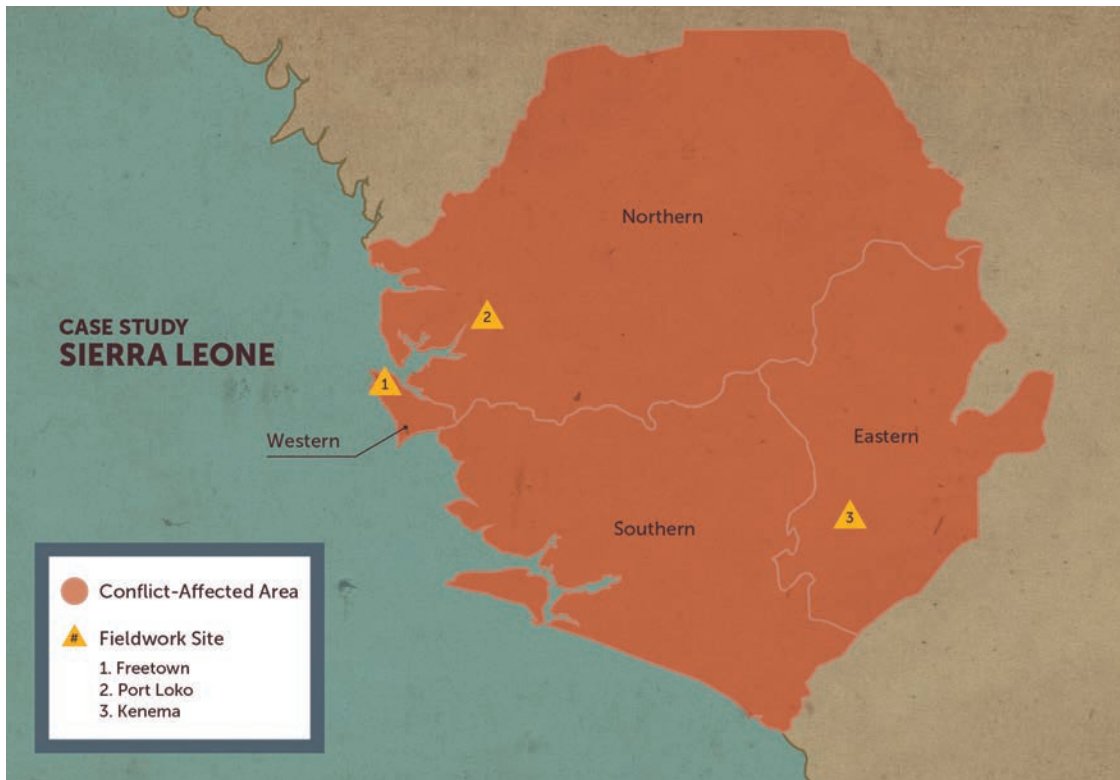
A 2014 survey found that while opportunistic sexual violence rose during the emergency period, politically motivated sexual violence was the most commonly reported form of such violence in this period.<sup>20</sup> In addition, UN agencies and other organizations expressed concerns following the election about the situation in internally displaced persons (IDP) camps, where conditions often forced unrelated men and women to sleep in the same tent. Women and girls may have been coerced into exchanging sex for basic resources in these camps as well.

## Liberia

In the first of the two civil wars Liberia suffered between 1989 and 2003, Charles Taylor's National Patriotic Front of Liberia (NPFL) led an uprising against the government of President Samuel Doe. Taylor became president in 1997. In the second civil war, Liberians United for Reconciliation and Democracy (LURD) forces attacked Taylor's government in 1999 and were eventually joined by other rebel forces. Both wars involved human rights abuses by all fighting factions and a breakdown in governance systems and economic sectors.

Both men and women experienced sexual violence during these back-to-back civil conflicts. Various studies have attempted to quantify the rate of sexual violence during the conflicts. Some controversial claims have been made that as many as 92 percent of all Liberian women experienced some form of sexual violence during the crises.<sup>21</sup> But an analysis of available studies reveals that the figure is likely closer to between 10 and 20 percent of Liberian women and 7 percent of Liberian men.<sup>22</sup>

Combatants reportedly experienced significantly higher rates of sexual violence than did non-combatants. A 2008 study found that 42.3 percent of female combatants and 32.6 percent of male combatants were exposed to sexual violence during the conflicts.<sup>23</sup> According to the 2007 Demographic and Health Survey for Liberia, high rates of sexual violence also took place between intimate partners during the conflicts.<sup>24</sup>



All fighting factions and security forces were reportedly responsible for acts of sexual violence, including former government forces and rebel groups. Child soldiers, who were often induced to consume drugs and alcohol, were both victims and perpetrators of sexual violence.

The 2009 final report of the Liberian Truth and Reconciliation Commission (TRC) catalogued sexual violence involving “brutal acts of rape, gang rape and multiple rapes, vaginal and anal rape and also [rape] with objects, guns, cassava plants, sticks, boots and knives. It overlapped with forced labor in that the women who were taken to wash and cook for the fighters were also sexually abused and kept as sexual slaves.”<sup>25</sup> According to the report, women bore a disproportionate amount of suffering during the wars, being brutally raped and kidnapped, forcibly conscripted into various warring factions, and forced to watch their husbands and children being tortured and killed.

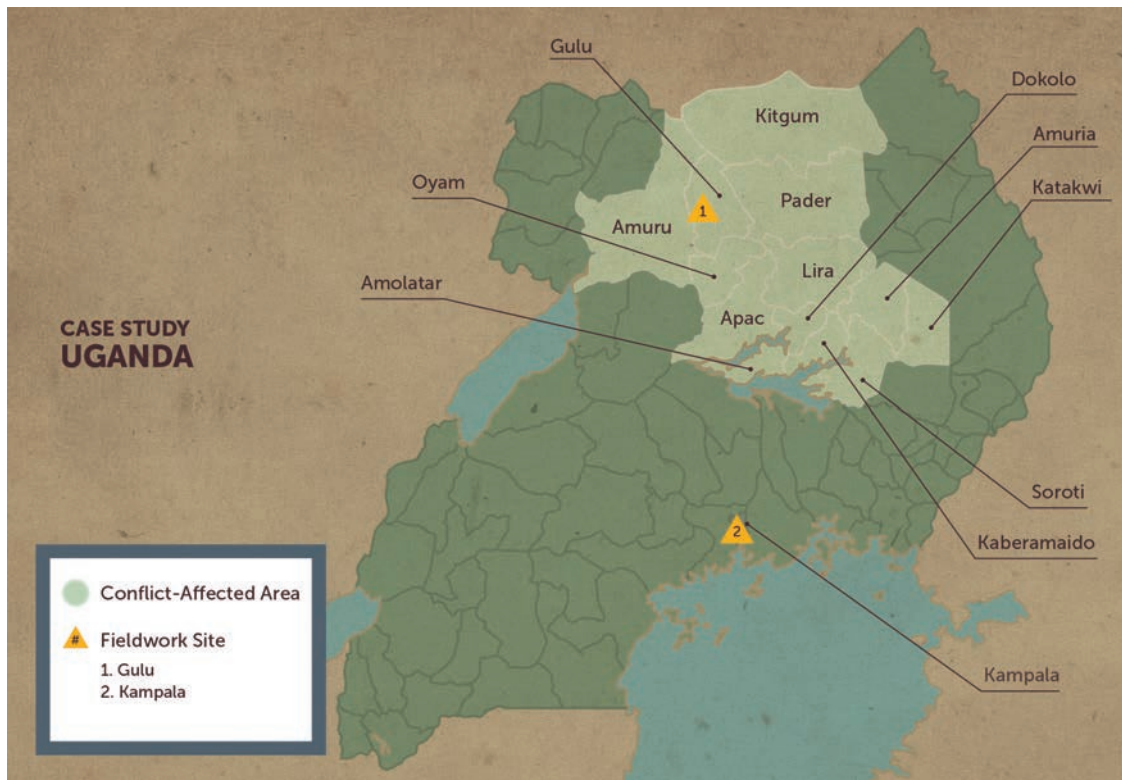
According to a 2011 report by the government of Liberia and the UN, sexual and gender-based violence committed during the conflict strained gender dynamics, destroyed the social fabric of communities, “and escalated new forms of gender-based violence such as prostitution, sexual exploitation, and sexual violence against young children and babies.”<sup>26</sup>

## Sierra Leone

The civil war in Sierra Leone began in 1991, when Foday Sankoh’s Revolutionary United Front (RUF) initiated a war against President Joseph Momoh’s government. By 1994, more than fifty thousand people had been killed and about half of the country’s 4.5 million people had been displaced.<sup>27</sup>

Women and girls were targeted in acts of widespread rape, sexual slavery, and other occurrences of sexual violence during the civil war. The exact number of individuals who were raped is unknown, but testimonies from survivors suggest that thousands of women and girls were victims.<sup>28</sup> In some instances of rape





and gang rape, survivors were held at knifepoint or gunpoint or were violated with objects such as sticks. At times, rape occurred in front of family members, and, in some instances, relatives were forced to rape their own kin.

Women and girls who were kidnapped were referred to as “wives” and kept by RUF members. Some experienced rape or gang rape several times, and if they succeeded in escaping one RUF group, they risked subsequent capture by another. RUF forces reportedly also used rape as a form of punishment for insubordination or retaliation.<sup>29</sup>

Pregnant women were not immune to attack, and some were even targeted because of their condition. Witnesses reported seeing both mutilated bodies of pregnant women whose fetuses had been cut out and gunshot wounds targeting pregnant women’s abdomens.<sup>30</sup> Furthermore, some pregnant women were forced into premature labor as a result of the hardship of fleeing their homes, and some died from complications.

Men also experienced sexual violence in the form of anal rape, forced masturbation of the perpetrator or another victim, and oral sex. According to the Forum for African Women Educationalists Sierra Leone (FAWE), boys and men were raped by male rebels: FAWE itself treated fourteen male survivors between the ages of nine and fifteen.<sup>31</sup> Human Rights Watch documented two cases in which female rebels forced men to have sexual intercourse at gunpoint.<sup>32</sup> While men as well as women were subjected to sexual violence, documentation is extremely limited, and it is believed that such cases were underreported due to stigmatization.

## Uganda

From 1987 to 2006, the Lord’s Resistance Army (LRA), a rebel group led by Joseph Kony, waged war in Northern Uganda in an attempt to overthrow President Yoweri Museveni’s government. During the twenty-year conflict between the LRA and the government’s Ugandan People’s Defence Forces (UPDF), both parties



reportedly committed violence and human rights abuses against civilians. Sexual violence against women was widespread and was often extreme in nature.

From 1992 to 2005, the LRA abducted sixty thousand to eighty thousand children in Northern Uganda.<sup>33</sup> Abducted boys were used as child combatants, and abducted girls were often forced to be “wives” to soldiers as soon as they reached puberty.<sup>34</sup> Women and girls in these forced marriages were required to have sex, often under threat of violence, which often led to forced childbearing. Rape outside of forced marriages was not widely reported. However, some witnesses and victims have reported that the LRA engaged in sexual torture and mutilation of both civilian males and females in the communities it attacked. The UPDF was also responsible for high levels of sexual violence during the conflict, raping both men and women, especially in operational areas.<sup>35</sup>

There was a high incidence of sexual and gender-based violence in IDP camps, including rape, defilement (sexual relations with a minor), and physical assault. Although precisely estimating the prevalence of rape within the camps is impossible, according to service providers, the rates were likely very high. Perpetrators included family and community members in the camps as well as external actors such as LRA combatants and the UPDF. Women were often targeted while they undertook tasks such as collecting water and firewood. In addition, women often engaged in “survival sex” with UPDF soldiers or camp leaders.

### Relevant Laws in Case Study Countries

None of the case study countries had legislation specific to conflict-related sexual violence during their recent conflict periods, and their laws to address sexual offenses specific to non-conflict periods were limited in scope. At the time of fieldwork (2011–14), the degree to which sexual or gender-based violence was criminalized—and how offenses were defined—varied from country to country, as described below.

#### Sexual and Gender-Based Violence Legislation

Desk research revealed some diversity among relevant laws governing sexual and gender-based violence in the four case study countries, many with recent amendments to expand lists of offenses or the specific definition of rape. Similarly, the four countries had a range of laws regarding international crimes.

#### KENYA

The Kenyan Parliament enacted the comprehensive Sexual Offences Act (SOA) in 2006, prior to the post-election violence of 2007–08. It is a remarkably comprehensive and forward-looking

law: not only does it assert an expansive list of criminalized offenses (from rape to child pornography), but it also prescribes the manner in which cases are to be investigated, victims are to be supported in court, and convicted persons’ identities are to be tracked. The SOA emphasizes the role of medico-legal evidence, promoting collection of forensic specimens and use of DNA analysis. It instructs the Minister responsible for legal affairs and public prosecutions to develop a national policy framework and direct inter-sectoral implementation of the Act and anticipates that cases brought under the act will be adjudicated under clear guidance from Kenya’s chief justice.<sup>36</sup> In 2007, then-Attorney General Amos Wako established a temporary Task Force on the Implementation of the SOA to monitor and advance the law’s impact.<sup>37</sup>

Given sufficient evidence and prioritization, many of the acts of sexual violence that occurred during the 2007–08 post-election violence could likely have been prosecuted under the Sexual Offences Act as stand-alone crimes if not as international crimes.

#### LIBERIA

In Liberia, the penal code in effect during the conflict periods defined sexual offenses in limited terms that did not encompass many incidents that occurred during the civil wars, such as gang rape and the rape of men and boys.

By the time of fieldwork, several sexual offenses had been criminalized through the Rape Amendment Act of 2006, known as the New Rape Law. Though passed less than a decade ago, the amendment had been conceived of years earlier due to brutal acts of sexual violence that Liberian female lawyers observed during the civil wars and their aftermath. Those acts included rape with objects, which was committed by male and female perpetrators; gang rape; and sexual offenses committed under threats of violence and/or after intoxicating the survivor.

Through the advocacy of women's rights groups, Liberia's New Rape Law was written to expand the definition of rape to include "intentional penetration of another person's vagina, anus or other opening without consent." It also criminalizes gang rape, rape of minors, rape resulting in serious bodily harm, and rape using a weapon.<sup>38</sup> The law designates eighteen as the age of consent and is written broadly enough to encompass sexual acts against men and boys.<sup>39</sup>

#### SIERRA LEONE

During the conflict in Sierra Leone, criminalization of sexual offenses was still based on the United Kingdom's Offences against the Persons Act of 1861, which penalizes but does not clearly define rape. The law also criminalizes other forms of sexual contact such as abduction, sexual contact with minors, and indecent assault. The offenses accounted only for female victims.<sup>40</sup>

By the time of fieldwork, however, Sierra Leone had passed the Sexual Offences Act (SOA) in 2012. The act criminalizes offenses ranging from rape to caretaker sexual abuse of a person with a mental disability. Notably, it criminalizes all non-consensual sexual activity, including sexual

activity involving a husband and a wife. Part III of the act also criminalizes offenses against children, including sexual penetration, sexual abuse by a person in a trusted position, and organizing or promoting child sex tourism. The Sierra Leonean SOA also addresses sentencing, including the weight of aggravating factors and victim impact statements. Furthermore, it contains specific systems-oriented prescriptions, such as expectations for police response and prohibiting fees for medical treatment and reporting. Finally, as with the Kenyan SOA, the Sierra Leonean law provides substantial witness support measures and calls for guidance on how courts should interpret and implement the act.

#### UGANDA

The Penal Code of 1950, which was in effect during the LRA conflict, lacked significant coverage for acts of sexual violence. However, it did list rape, defilement, prostitution, and other sexual offenses in its "Offences against Morality" section. The code was amended in 1990 and again in 2007 to reflect changes in penalties for offenses and to broaden the coverage of laws on defilement and similar acts.<sup>41</sup>

The code is still in effect, criminalizing the rape of female victims, defilement (defined as the rape of a minor), indecent assault, and "unnatural offences" (defined as "carnal knowledge of a person against the order of nature").

In 2009 and 2010, the Ugandan Parliament passed a slate of thematic laws criminalizing domestic violence (DV), trafficking in persons, and female genital mutilation/cutting (FGM/C).<sup>42</sup> The Ugandan Parliament is also now considering a Sexual Offences Bill and the Witness Protection Bill. The widely noted Anti-Homosexuality Act, passed by the parliament in 2013, criminalizes sexual penetration between men. Among myriad concerns this act has raised was its blanket criminalization of male-to-male sexual contact, which could inhibit male survivors from coming forward out of fear of being prosecuted. The Constitutional Court

*Case study countries' signature and ratification of the Rome Statute of the International Criminal Court*<sup>44</sup>

- Kenya: Signed August 11, 1999; ratified March 15, 2005
- Liberia: Signed July 17, 1998; ratified September 22, 2004
- Sierra Leone: Signed October 17, 1998; ratified September 15, 2000
- Uganda: Signed March 17, 1999; ratified June 14, 2002

of Uganda struck down the law in August 2014 for technical reasons.<sup>43</sup>

### International Crimes Legislation

Legal frameworks for prosecuting sexual violence as an *international* crime, as outlined in the Rome Statute, were less robust. Only Kenya and Uganda had domesticated the statute at the time of fieldwork.

Kenya's International Crimes Act (2008) adopts the Rome Statute's definitions of war crimes, crimes against humanity, and acts of genocide<sup>45</sup> and lays out the terms of cooperation between Kenyan state entities and the ICC. The act applies only to international crimes committed after January 1, 2009, the date it came into force. Similarly, in Uganda, the International Criminal Court Act (2010) adopts the

Rome Statute's definitions of international crimes,<sup>46</sup> including the statute's references to forms of sexual violence.

Without full integration of international crimes definitions and evidentiary burdens into national laws and operations, local police—trained primarily in domestic penal codes and gender-violence laws—are not necessarily prepared to investigate sexual violence committed as a crime against humanity, a war crime, or an act of genocide.

Furthermore, the national laws of Kenya and Uganda that domesticate the Rome Statute are not understood as retroactive; thus they have not been used to prosecute alleged perpetrators of international crimes committed during recent emergency periods.<sup>47</sup>

Reporting sexual violence is the first step that survivors must take to engage the formal legal system. Survivors may report sexual violence directly to law enforcement or to service providers or community members who can offer support or accompaniment to the police. In the following section, *reporting* refers to survivors' disclosure of incidents of sexual violence through any formal or informal channels that may connect the survivors to the formal legal system.

This section outlines key issues in the reporting process, including social factors, structural barriers, and confidence in law enforcement, as well as strategies to increase reporting both during peacetime and in recent conflict periods.

## Reporting During Conflict Periods

Across all case studies, reporting of sexual violence during conflict was minimal. Conflict periods both exacerbated general challenges and created new barriers to reporting.

Survivors of conflict-related sexual violence often faced particularly heightened stigma. In Northern Uganda, for example, some communities rejected survivors who had been abducted and forced to serve in the Lord's Resistance Army (LRA). Women and girls who were forcibly married to or raped by LRA members were especially stigmatized and, in some cases, were disinherited or banished from their communities. As a result, few survivors were willing to come forward to speak about their experiences during and after the conflict.

In addition, informants across case studies noted that it was often more culturally acceptable to seek assistance from leaders and elders within a community than to go outside to the police and courts, especially when the perpetrator was a relative. Of reporting during the conflict in Sierra Leone, one interviewee said:

Communities reported to communities, not to systems. . . . You would lose your family if you reported as an older woman. It also depended on who was involved. If the rape was by a family member, it was kept a secret. —*Practitioner, NGO, Sierra Leone*

In addition, community leadership structures for addressing violence and disputes were fractured. For example, in Sierra Leone, major internal displacement divided chiefdoms and communities. There were no "paramount chiefs"<sup>48</sup> in some displacement camps, while in others several paramount chiefs and their community members were suddenly intermingled within the same area, creating leadership challenges. Similarly, in Uganda, Local Council (LC) members were often crowded into the same IDP camp areas and no longer had authority in their surrounding communities.

According to informants, it was the magnitude of sexual violence committed during conflicts that brought much-needed attention to the issue and the following development of services. During the conflicts themselves, however, awareness of sexual violence was limited. For example, in Sierra Leone, although rapes had occurred prior to the conflict, women did not know how to define what had happened to them, and there was no infrastructure to address rape cases before or during the war.

There was no normalcy or structures in place to report rape. . . . Only after the war was rape given a name—women understood, the community understood, and could give what happened to them a name. —*Practitioner, NGO, Sierra Leone*

Many survivors, particularly those raped by soldiers or rebel group members, did not know their rights or how to report incidents. In some cases, such as those of women who were forced to be “wives” to LRA commanders, survivors did not always view what they had experienced as crimes. Even if they had wished to come forward, it is unclear whether any services or programs would have been available to support them during the conflict periods; this was especially true for male survivors.

Conflict situations also presented major structural barriers to reporting and seeking services across case studies. Law enforcement and health facilities often suffered severely damaged physical buildings and displaced staff. Even when government facilities themselves were operational, staff faced access and security challenges, such as fear of being stopped by armed groups, lack of transportation, and roads blocked by fires or other infrastructural breakdowns.

Effective strategies focused on improving access to reporting channels and connecting survivors to services. These included providing transport and hotel accommodation near the hospitals offering post-rape care, operating a 24-hour hotline for survivors in IDP camps, and training teams of community-based first responders to assist and refer survivors. In Kenya, one-stop centers at Nairobi Women’s Hospital and Kenyatta National Hospital were instrumental in providing care to a high volume of survivors during the emergency period.

Furthermore, where the state was implicated in the violence, there were fewer safe channels for reporting to police and few ways to ensure one’s security afterward.

If a soldier raped a woman, the woman had to report to the military, you know, to the same soldiers. And so women kept silent. —*Practitioner, NGO, Uganda*

Finally, sexual violence response was not prioritized, particularly during the early stages of conflict and emergency periods. Governments and NGOs were in a state of triage, concerned primarily with maintaining security and order and ensuring access to food, water, and shelter. The police often did not view sexual violence as a serious matter compared to murder and displacement.

In a time of chaos and upheaval, rape was the least concern in the eyes of law enforcement. To them, they were there to maintain order, maintain peace, and protect lives and property. But rape isn’t visible . . . —*Practitioner, NGO, Kenya*

In situations of protracted conflict and displacement, however, reporting and referral systems and sexual and gender-based violence services were eventually developed and implemented over time.

## Reporting Today

At the time of fieldwork, researchers learned of several barriers to survivors' reporting their experiences of sexual violence.

### Social Factors

Social factors—including stigma, pressure from community and family members to settle cases outside court, and preferences for community-based resolution—inhibited many survivors from reporting sexual violence to the statutory legal system or at all. Fear for their personal safety and a lack of awareness of legal rights, systems, and available services also prevented many from coming forward.

#### *Stigma*

Respondents consistently noted that stigma, which played out in varying ways across the four case studies, was a major barrier to reporting sexual violence. First, negative perceptions of survivors led many survivors to keep the incident secret or to settle cases informally. For example, key informants in Liberia noted that women who have been sexually assaulted are perceived as “damaged goods” and are no longer desirable as partners. In Uganda, respondents reported that survivors and their children risk rejection by family and community members. In Kenya, a key informant explained that community members, including even the parents and friends of survivors of sexual violence, often view the survivors as prostitutes.

Second, adult women are often blamed for sexual violence they experience, and their experiences may be discredited. In Uganda, for example, a survivor may be blamed for bringing an attack upon herself through her style of dress, behavior, or presence in a particular location. In Sierra Leone, lawyers and judges interviewed expressed concerns that some sexual violence claims are simply girlfriends' attempts to cause problems for their boyfriends. Similarly, a 2008 study conducted by the United Nations Mission in Liberia (UNMIL) found that well over half of Liberian men and women believe that most allegations of rape are baseless or that women contribute to rape by flirting with men, wearing revealing clothing, or being alone with a man in a room.<sup>49</sup>

Adult women can't get raped. They are big and can fight back, they can say no, you see?

—Male ministry official, Liberia

Third, respondents noted that some groups face greater stigma than others. Across the case study countries, adult survivors seem to face greater stigma for sexual violence than child survivors do. In Liberia, for example, the older the child, the greater the associated stigma, which may make it more difficult for him or her to access reporting mechanisms:

The stigma surrounding a survivor reduces as her age gets lower. You can't blame a one-year-old or a five-year-old, but when you start to get to puberty, the blame starts to shift:

“She was acting that way, showing her body off.” —Practitioner, NGO, Liberia

Across case studies, informants noted that the vast majority of rape cases reported to healthcare providers and the police involve children, which some attributed to the heightened stigma faced by adult survivors. Male survivors also experience stigmatization, which is often linked to perceptions of weakened masculinity. As a result, men rarely report incidents to the police, which perpetuates the assumption that rape of men is rare or impossible. Interviewees in Kenya and Uganda noted that the stigma of being raped can be more pronounced if the survivor contracted HIV as a result of the assault.



## *Fear*

Fear of reprisal by perpetrators, particularly if a perpetrator is a family member or holds an influential position within a survivor's community, is another reason that survivors may choose not to report sexual violence. Perpetrators and their family members have reportedly threatened survivors to stay silent. Fear for their personal safety, in addition to the lack of safe shelters for individuals fleeing sexual and gender-based violence, inhibits survivors from reporting their experiences to authorities and undermines their resolve to follow through with court proceedings.

Strategies to fill the gap in shelter protection have required flexibility and creativity. For example, in some areas, hospitals occasionally house survivors with urgent protection needs. In others, paralegals and community advocates take survivors into their own homes. Notably, at the time of research, the UN Joint Programme on Gender Equality in Uganda had initiated a project to pilot five shelters to provide accommodation, basic needs, medical care, counseling, and legal aid to survivors of gender-based violence. Two safe shelters have been established in Ugandan hospitals. In areas with space and resource constraints, however, the shelters are not located within health facilities, but rather in close proximity to police, health, and legal aid services. Staff accompany survivors to these services. Management of these one-stop shelters will be transferred from NGOs to Uganda's Ministry of Gender, Labour, and Social Development later in 2015.

## *Social and Economic Pressure*

Survivors are often under tremendous social and economic pressure to settle their cases outside court rather than to report incidents to the police. Community leaders or elders often facilitate these community-based resolution processes, which generally involve negotiating an exchange of goods or monetary settlement from a perpetrator's family to a survivor's family.

Family and community members often pressure survivors to settle sexual violence cases outside the formal justice system to avoid the shame, stigma, and dishonor associated with such crimes within their families or communities, especially when the perpetrator is a relative or neighbor. Survivors and their families also face pressure from their communities to reconcile with perpetrators to maintain social cohesion. This is particularly true in rural areas, where traditional systems are more prominent than formal structures.

Financial incentives to settle disputes also inhibit reporting. Survivors or their families are often able to receive some form of compensation if the issue is resolved at the community level, but they do not receive compensation through the formal criminal justice system, which is focused punishing the perpetrator. In addition, a survivor of family violence may not want to report abuse by a family's breadwinner. Furthermore, many survivors cannot afford to take time away from work to pursue formal justice. Respondents also noted the general perception in many communities that formal justice must be paid for and is prohibitively expensive.

## *Community Justice Mechanisms*

Many cases never reach the formal legal system because of preferences for, and reliance on, community justice mechanisms. This is particularly true in rural areas. Although this study focused on accountability through the formal legal system, informants also highlighted key issues regarding the ways in which sexual and gender-based violence cases are handled through community justice systems.

First, informants reported that community leaders often mediate sexual violence cases despite laws prohibiting them from doing so. For example, in Liberia, the law requires chiefs to transfer sexual violence cases to the statutory system. However, chiefs often fail to recognize reported incidents as rape, especially sexual



The West Africa Network for Peacebuilding's Women in Peacebuilding Network (WIPNET) peace hut in Totota, Liberia, where survivors can seek support from a female community leader. Photo by Michelle Ben-David.

assaults of adults and sexual offenses that did not result physical injury. In Uganda, Local Council members are supposed to register criminal cases, including cases of sexual violence, that are brought to their attention and transfer them to the police. However, they often do not respect or are unaware of these jurisdictional lines, and they still mediate cases of rape and other sexual and gender-based offenses.

Similarly, in Sierra Leone, despite laws preventing paramount chiefs from adjudicating sexual offenses, they continue to do so in rural areas due to traditional beliefs, preferences of survivors and their families, and distance from formal courts.<sup>50</sup> As one key informant explained:

No matter how much transformation takes place, the chiefs will still have the influence over the community. —*Paralegal, civil society organization, Sierra Leone*

Second, informants reported that community leaders lack adequate training and capacity to respond to sexual violence cases. Survivors are often referred to health facilities only after much time has been spent negotiating with perpetrators and participating in community mediation processes, which delays urgent medical care and the effective collection of evidence. In addition, some community leaders are reluctant to change traditional practices that conflict with statutory laws.

Third, some interviewees felt that traditional justice systems run the risk of bias. Chiefs can mediate matters in a way that, at best, discriminates against survivors due to lack of sensitization or, at worst, is corrupt. Some informants pointed out that community justice mechanisms are usually male-dominated, patriarchal structures. Others explained that because men typically have more resources than women to influence decisions, elders often side with men.

Finally, informants highlighted that survivors often do not participate in or directly benefit from community mediation processes. For example, in Sierra Leone, under customary law, a man found guilty of raping another man's wife must compensate the husband, not the wife, for what is called "woman damage." Rape is considered a violation of the husband's honor and his sexual rights over his wife rather than an offense against the survivor.<sup>51</sup>

Strategies to improve handling of sexual violence cases at the local level include development of gender-sensitive community justice mechanisms and civil society efforts to train or collaborate with community leaders to align customary practice with statutory law. For example, the establishment of "peace huts" by the West Africa Network for Peacebuilding's Women in Peacebuilding Network (WIPNET) has apparently

Billboard aimed at raising awareness in Sierra Leone.  
Photo by Lynn Lawry.



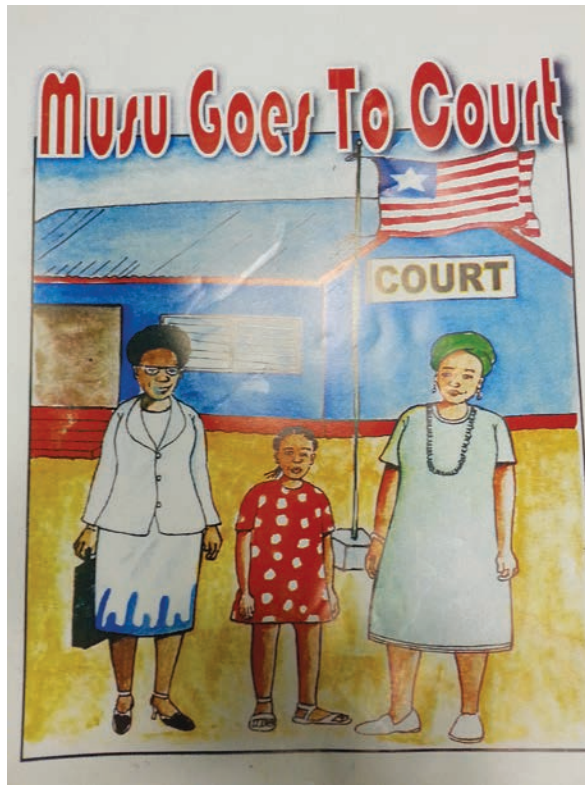
improved response and provided a critical support network to women in Liberia, particularly in rural areas. The peace huts offer a safe space for survivors to report many forms of gender-based violence and seek advice and support from female leaders in their communities. Through these peace huts, women leaders mediate domestic violence disputes and work closely with the police on sexual violence and other serious cases.

In Northern Uganda, Ker Kwaro Acholi, the cultural institution of the Acholi people, has produced a booklet, “Acholi Gender Principles and Practice,” which outlines Acholi cultural principles that promote women’s human rights and offers gender-sensitive practices for mediating community disputes. It has been used to train and sensitize community members, first through a structured approach in which Acholi community leaders moved from one community to the next to raise awareness and later through community radio programs.<sup>52</sup> In 2013, in collaboration with UN Women and the International Federation of Women Lawyers—Uganda (FIDA-Uganda), Ker Kwaro Acholi produced *Administering Traditional Justice in Acholi: Case Management Handbook*, a reference guide for community leaders. In addition to standard procedures, it offers case management forms that can be provided to the police if survivors decide to go through the formal system.

#### *Awareness of Laws and Systems*

Other major impediments to reporting are a lack of awareness of sexual violence as a crime and a lack of knowledge about how to report it.

First, across the four countries, informants reported that survivors do not always think that what they have suffered is a crime that can be reported to and investigated by the police. This seems particularly true when the perpetrator is a family member, friend, or person in a position of authority. Second, survivors may not know their rights or what steps to take to file claims, access healthcare, or preserve evidence of what has happened to them. Finally, community members, and even key stakeholders involved in addressing sexual



In 2011, the Liberian Ministry of Justice and the Norwegian Refugee Council created this comic book for children to teach them how to report sexual abuse to the authorities and prepare for court. Photo by Kim Thuy Seelinger.

violence, may be unaware of existing laws or may understand rape differently than the law provides. In Liberia, for example, some people assume that only virgins can be raped:

For some of them, as long as you are not a virgin, you were not raped. [You] need to explain to them that even if a woman has twenty children, when she is forced to have sexual intercourse against her will, it is rape. And for children, even if they have consented, it is rape, statutory rape. That's the kind of information and awareness that is now being given out in communities. —*Representative, UN agency, Liberia*

As noted earlier, some informants also mentioned local perceptions that once a girl has reached a certain age, she can no longer be raped. Additionally, in some communities, key informants explained that marital rape is not viewed as a crime because of the general perception that women are obligated to fulfill their husbands' sexual needs.

To improve understanding of sexual violence, related laws, and response services and to mitigate the stigma described earlier, government and civil society have implemented a range of creative strategies. These have included publishing laws in simplified and local languages, installing billboards and signs aimed at raising awareness of reporting processes and laws, and creating colorful murals depicting steps for reporting and bringing cases to court.

One particularly useful example is a picture book called *Musu Goes to Court*, which was developed by prosecutors in the Liberian Ministry of Justice's Sexual and Gender-based Violence Crimes Unit (SGBV CU) to help children understand how to report sexual violations and prepare for investigation and trial. Other





Public mural by the Centre for Rights Education and Awareness (CREAW) outlining steps for seeking care and justice for sexual violence in Nairobi, Kenya. Photo by Kim Thuy Seelinger.

strategies included the use of community radio, music, dance, drama, murals, and sports activities followed by community discussion sessions addressing legal rights and how to report sexual violence.

One evidence-based approach to raising awareness is the widely adopted SASA! community mobilization strategy, which was developed by Raising Voices in Uganda.<sup>53</sup> SASA! is a long-term, step-by-step approach to re-shaping social norms to reduce gender-based violence within communities. Implementing organizations train a group of community members, drawn from a range of sectors, to serve as local activists and initiate formal and informal discussions about the benefits of reducing violence and the power imbalance between women and men in their communities. One phase of the program improves response by building community activists' capacity to provide counseling and referrals and to facilitate support groups for survivors and perpetrators.

### Structural Factors

Those survivors who, despite the aforementioned barriers, do wish to report their experiences may not find such reporting easy. As explained below, structural factors such as transportation challenges, the cost of services, and the absence of nearby healthcare and police services may impede their access to health and legal systems.

While access to police and healthcare facilities is generally possible in capital cities, rural communities are often great distances away from functional police stations and/or health clinics, which creates major barriers to reporting. In addition, lower-level facilities in rural areas are often not equipped to provide comprehensive post-rape care, requiring survivors to travel to district or national hospitals. Transportation challenges—for example, the flooding of roads in rural counties during the rainy season—can make travel to nearby clinics and police stations tremendously difficult.

An additional barrier is the actual or perceived costs that reporting would incur: survivors may not have the money for transport, or they may be unsure of fees for medical treatment or police paperwork. Health

Sample of a referral card issued by the Norwegian Refugee Council in Monrovia, Liberia, to survivors seeking support services for sexual violence. Photo by Michelle Ben-David.



facilities' limited hours, including closure during evenings and weekends, further obstruct timely reporting and access to care.

Strategies to overcome these structural barriers include training community volunteers to act as first responders, paralegal programs, gender-based violence hotlines, coordination and referral systems, and one-stop centers offering integrated services.

Although referred to by a variety of names, first responder teams are generally committees or groups of volunteers trained to receive reports, provide counseling, and serve as critical links to services. They also monitor the progress of cases and educate communities about sexual violence and available response services. First responders tend to have strong relationships with police and health providers, and they provide survivors with accessible channels for reporting at any time.

Paralegals, too, aim to increase reporting and access to the formal justice system, particularly in rural areas, where there are often fewer legal aid organizations and lawyers. In some settings, lawyers train paralegals to understand the relevant laws, conduct intake of cases, assist with forms and basic counseling, and help prepare cases for review by lawyers. In other settings, the role of paralegals resembles that of first responders: they receive reports, provide counseling, and accompany survivors to police and health services.

Toll-free twenty-four-hour hotlines for survivors are another means to disseminate advice and information about how to access police and health services.

The establishment of local "referral pathways" within communities is a common strategy to increase access to reporting and engage in the legal process. Designed to help survivors navigate complex networks of general support services, referral pathways consist of standard sequences of service or connections between sectors for survivors seeking medical care, counseling, shelter, and police intervention. For example, a pathway in a specific geographic region may start with a certain police station, then proceed to a specific unit at the provincial hospital, and then return to the police or a legal aid organization for further case development. Posters, murals, protocol booklets, and other creative methods may be used to build awareness of referral pathways among providers and community members.

In Liberia, the Norwegian Refugee Council has worked with the national Gender-based Violence Task Force since approximately 2011 to devise a unique "referral card system" for survivors who come forward to access public services. A survivor presenting for services receives a card with a number that identifies his or her case in centralized records. The card is coded to conceal its carrier's identity and indicate



Head nurse, social worker, and psychologist at the Gender-Based Violence Recovery Center in Kenyatta National Hospital in Nairobi, Kenya. Photo by Kim Thuy Seelinger.



the type of harm suffered and relevant jurisdiction. A survivor can then carry that card as a personal “key” when seeking any other support services in the public system, which spares her from having to tell her story several times to different providers. Participating providers register case information based on these cards, which helps to reduce duplicate references to the same case caused when a survivor travels among providers. Thus tracking the true number of cases in an area is easier. When task force members see the number of reported cases changing, local actors can conduct outreach in their communities to investigate the reasons for the change, which may provide insights into barriers to reporting or programs’ effectiveness.

Informants noted that the referral card system, while promising, has posed some initial challenges. For example, cards are not always available at reporting centers. Codes initially assigned to a card might turn out to be inaccurate based on additional details later obtained from a survivor. Finally, cards can be easily lost, and the replacement process is imperfect. However, informants acknowledged that the system is a pilot effort and can be improved over time.

One-stop centers (OSCs), observed across case studies, were another common approach to coordination. These centers generally integrate multi-sectoral services in one location to streamline reporting and facilitate access to free medical, psychosocial, forensic, legal, and police services.<sup>54</sup> The degree of integration of services varies: all of them may be located under one roof, or a combination of onsite services and referrals to outside providers may be used.<sup>55</sup> Centers may be based within hospitals, such as the Gender-Based Violence Recovery Center at the Kenyatta National Hospital in Nairobi, Kenya, and the center at James Davis Junior Hospital in Monrovia, Liberia. Alternately, they may be specialized, stand-alone facilities such as Médecins Sans Frontières’ (MSF’s) Gender-Based Violence Recovery Center in the Mathare area of Nairobi. Among their most effective practices are twenty-four-hour, seven-days-per-week operation; ensuring that all services are free; offering ambulances to pick up survivors or reimbursement for transportation costs; and providing long-term counseling services or support groups.

Nobody plans to be raped. If they called us and learned that we could cover their transport costs, it really helped. —*Health provider, civil society organization, Uganda*

According to key informants, OSCs can expedite access to care in some settings because survivors can go directly to centers and need not register or wait for services in general healthcare settings. OSCs also offer staff with specialized sexual violence training and experience and are likely to be equipped with necessary supplies. However, these centers are resource-intensive. Many OSCs visited by researchers struggled with limited staffing, resources, and operating hours. Effective collection of evidence and transfer were sometimes limited by inadequate storage space and supplies or the failure of police to pick up samples from the centers. Informants emphasized that OSCs were most effective when they were part of a tightly knit referral pathway and had strong relationships with police and service providers in other sectors. Furthermore, informants emphasized that it was important that an OSC have a neutral name and for its staff to work to promote positive community perceptions of the center to avoid stigmatization of those entering the building for services.

### Confidence in the Police

Lack of confidence in the police, including their perceived inability to provide sensitive and effective services, and general mistrust based on experiences during conflicts can prevent survivors from reporting incidents of sexual violence to law enforcement authorities.

### Competence

Across the four countries, informants noted significant degrees of survivor reluctance to approach the police. Frequently, this inhibition was due to doubts that the survivor would encounter a sympathetic and well-trained officer. Repeatedly, informants noted that survivors do not perceive any benefits in filing police reports. They have little faith that police will be responsive to their claims—police may tell domestic violence survivors to leave and settle their “private” matters at home or tell survivors that they don’t have enough evidence, or that they are somehow responsible because of how they were dressed or their location at the time of the crime.

To improve police competence in handling sexual and gender-based violence cases, each country uses various measures to improve officers’ receptivity to reports. They frequently include creation of specific corps that are tasked with initial reports of sexual or gender-based violence. These points of reception within the police force range from general officers who rotate through a “gender desk” at police stations in Kenya to a largely autonomous unit focused exclusively on investigation of sexual and gender-based crimes in Liberia.

### Trust

According to informants, part of the survivors’ reluctance to report their experiences is due to mistrust of the police. This is particularly true for those who suffered during conflicts in which the police or other government actors were directly implicated in the perpetration of violence. For example, an interviewee in the Kibera district of Nairobi alluded to a fear of law enforcement during Kenya’s post-election violence in early 2008:

You must understand that Kibera is mostly [opposition-party] territory. So it was the police themselves who were standing on the main road there, shooting into our homes. Who were we to report to? —*Staff, safe shelter, Kenya*

Child and Family Protection Unit (CFPU) buildings at a police station in Gulu, Uganda. Photo by Amy Belsher.



Interviewees noted that such experiences may have a long-term impact on community members' perceptions of law enforcement and level of trust in police officers' ability to protect and assist residents. In addition, they reported that some survivors do not report to police because they believe that corruption will obstruct justice.

One strategy to address lack of confidence in the police is to improve accountability. In Kenya, the Independent Police Oversight Authority (IPOA) was recently established for this purpose. Formerly, any complaints about police conduct were channeled through an internal affairs unit within the Kenyan police service. Since 2012, the IPOA has managed citizens' concerns about police treatment and accountability overall. The IPOA intends to accept complaints about police handling of sexual and gender-based violence reports, but at the time of field research, its staff did not yet have specific expertise in standards of investigation for sexual and gender-based violence cases.

# INVESTIGATION

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Collection of evidence is the heart of any criminal investigation. The evidence-gathering and analysis process involves healthcare and legal aid providers, police officers, forensic analysts (where they are available), and prosecutors.

Typically, under most domestic penal or gender-violence laws, one must collect evidence that the sexual act occurred, with a specific intent, and without consent. This evidence can take many forms, including physical material collected from a crime scene or a survivor's body, documentary evidence in the form of medical reports or police statements, and oral testimony by survivors and witnesses.

To prove that an act of sexual violence also constitutes a war crime, crime against humanity, or act of genocide, one must collect and present additional layers of evidence. For example, one may need to show that a rape was directly related to the surrounding armed conflict, or that there was a pattern of similar gang-rapes throughout several communities, or that a group of perpetrators were genitally mutilating women with a view to destroying their ability to bear children of a specific ethnicity. One must also collect evidence of the accused's intentions and his or her connection to the specific act the survivor has suffered.<sup>56</sup>

## **Role of the Health Sector**

The health sector plays a major role in the collection of evidence for sexual violence cases, especially because healthcare facilities may be the first place that a survivor seeks assistance. In addition, medical reports are often seen as the most helpful pieces of documentation in criminal cases. However, the role of healthcare providers in documenting sexual violence for accountability purposes is rife with challenges.

## **Responding During Conflict Periods**

During periods of active conflict in each of the case study countries, health sectors' capacity to provide care for sexual violence survivors was curtailed by the limited number of skilled providers in conflict-affected areas.

In Sierra Leone, many doctors fled violence-impacted areas. In Liberia, during the 1988–98 conflict period, the number of people working in the public health sector decreased from 3,526 to 1,396, of whom only 89 were physicians and 329 were nurses.<sup>57</sup> In Uganda, recruiting doctors and nurses to conflict-affected areas in the north proved difficult.

In Kenya, many healthcare providers were on leave for the holidays when violence broke out in December 2007, and they had to be called back to work. Moreover, some informants noted the added challenge presented by inter-ethnic conflict: healthcare providers found that their ethnicity was suddenly an asset in some

places and a liability in others. Dispatching workers to provide emergency services in an area where the majority of community members were of a different ethnic group created both language and trust-related problems. Furthermore, many providers fled the areas where violence broke out, were unable or afraid to travel to work, or were sent to areas with even greater needs. As one provider explained:

During the post-election violence, we had so many patients who were admitted . . . but our staff were also suffering. Our staff could not even come to work because it was dangerous at that time. —Nurse, hospital, Kenya

Informants' reflections reminded researchers that conflict-related disruptions affected not only the survivors of sexual violence, but also the first responders and other service providers who lived in the same communities.

### Late Reporting

Key informants noted that many survivors seek care at health facilities days or even weeks after sexual violence occurs, which is often too late for certain medications, such as emergency contraception or post-exposure prophylaxis (PEP) for HIV. It is also often too late to capture evidence of physical injury: blood or semen may have been washed away, and bruises or scratches may have healed. In addition to ensuring that survivors are able to access the medical care they need, it is, from a sheerly evidentiary perspective, critical to understand the reasons for survivors' late presentation of injuries. Such understanding can also help providers to identify and develop strategies to facilitate survivors' access to healthcare centers.

### Resource Limitations

According to key informants, healthcare facilities are under-resourced in general, and specifically so with respect to supplies needed for post-rape care examinations and collection of evidence.

One strategy used to remedy the lack of proper supplies and improve the collection of evidence is the distribution of pre-assembled "rape kits" or "forensic kits" to healthcare facilities. In Uganda, the United Nations Population Fund (UNFPA) and WHO have collaborated with the Ministry of Health to distribute WHO's forensic kits to the main referral hospitals. However, according to a forensic expert, these kits do not align with local capacity or standards of practice in Uganda. In Kenya, a local NGO, LVCT Health, has worked with government stakeholders to develop a locally assembled, context-specific rape kit. A 2012 study found that this locally assembled kit eliminates the need for a survivor to be examined by more than one healthcare provider and has improved the use of the standard post-rape care (PRC) form.<sup>58</sup>

In other cases, large donors have provided forensic examination materials to healthcare facilities. However, it was unclear whether these are sufficient in number, and informants said that distribution of specialized kits does not always translate into the utilization of these supplies by healthcare providers.

We ensured the distribution of rape kits, but if you go to the health clinics, you will find that they don't know where the kits are. —Representative of UN agency, Liberia

### Capacity and Competence

The capacity and competence of healthcare workers to handle cases of sexual violence vary dramatically, even within a single region. Often, only larger referral hospitals at the district, county, or provincial level are equipped with the trained staff and equipment necessary to provide post-rape care and examination. Thus, at



the local health-center level—particularly in rural areas—providers are often unable to collect medico-legal evidence.

The competence of healthcare staff was also a challenge, particularly at local health centers. Despite sporadic training efforts, knowledge about post-rape examinations, documentation, and forensic collection of evidence is reportedly quite limited among health providers. In most places, there is a lack of clarity and guidance about the management of medico-legal evidence of sexual violence.

Doctors simply do not know what to collect and how to handle evidence. The survivor may require treatment, but also [needs] justice. . . . There are medical guidelines on evidence collection since 2009, but they have not trickled down. The provider sees the person as a patient and not as a crime scene, which means that evidence is not identified and collected.

—Forensic expert, Kenya

NGOs and governments employ a variety of strategies to address competence challenges. Training of healthcare providers—including doctors, nurses, clinical officers, and midwives—to care for survivors has been both multi-sectoral and sector-specific and has covered clinical care, trauma counseling, forensic collection of evidence, medico-legal documentation, local referral mechanisms and coordination, and the role of health providers in court procedures.

Clear guidance on the management of sexual violence cases, including collection and management of forensic evidence, is also necessary. National guidelines, such as Kenya's 2009 National Guidelines on the Management of Sexual Violence, provide healthcare providers with standards regarding the provision of clinical care to sexual violence survivors. This aims to standardize response and ensure comprehensive care.



Informational sign about post-rape care (PRC) and testing services at James Davis Junior Hospital in the Paynesville section of Monrovia, Liberia. Photo by Lisa-Marie Rudi.



Such guidelines can also be used for training purposes and can serve as an ongoing resource for healthcare providers.

### **Reluctance to Gather Evidence**

Some healthcare workers are reluctant to collect evidence of sexual violence. Several informants explained that healthcare providers' primary mandate is to provide medical care, and therefore some do not consider forensic examination and documentation to be part of their role.

Other medical workers may not prioritize the collection of evidence because they are in a constant state of triage, with limited staffing, supplies, and time. Informants noted that healthcare workers often provide emergency treatment and referral and skip the exam, forms, and collection of evidence. They simply do not have the time for the extended forensic examination, the administrative burden of lengthy documentation and liaising with police, or potentially testifying in court.

To address reluctance on the part of providers, some NGOs in Sierra Leone and Uganda are paying providers as an incentive to conduct examinations and provide medical reports. However, informants expressed concerns about the sustainability of these approaches, and said that they likely reinforce the common perception that filling out medical forms is beyond providers' scope of work and is something for which they should receive additional compensation.

### **Role of the Police**

The ability of local police to effectively investigate and collect evidence of sexual violence depends on resources, mandate, and training. The trend researchers observed toward specialized police units has advantages and disadvantages, with direct implications for coverage of rural areas.

### **Responding During Conflict Periods**

Sexual violence that occurs during conflict is particularly difficult to document and investigate. Significant social and structural barriers inhibit reporting during periods of conflict (deep stigma, interrupted public services, lack of mobility due to insecurity, etc.). Survivors often report to health facilities late or not at all.

Even when survivors are able to report sexual violence, police and healthcare providers are overwhelmed with other emergency requests for assistance and resources are depleted even more quickly than usual.

Where guidance regarding the documentation and investigation of sexual violence exists for healthcare providers and police officers, it rarely includes specific considerations or modifications relevant in emergency periods. Response to sexual and gender-based violence during humanitarian crises is thus often left to the domain of humanitarian relief providers—often large international actors providing emergency medical services, which may have vastly different degrees of integration or cooperation with local service providers. These groups generally do not include documentation for criminal prosecution as part of their mandate.

Even after a conflict, investigation by local authorities is difficult. Evidence of sexual violence has been lost, survivors and other witnesses may have been displaced from their homes and can no longer be contacted, and the issue itself is rarely a priority in post-conflict reconstruction. Further, the additional evidence required to prove sexual violence as a war crime, crime against humanity, or act of genocide is not well understood by most police officers on the ground, making it unlikely they can recognize or document it properly.

Researchers noted few examples of preparedness by local police or healthcare providers to document or investigate sexual violence during active conflict—particularly those acts that may constitute an international crime. Notably, Kenya's 2009 National Guidelines on the Management of Sexual Violence for

healthcare providers do include a short chapter on sexual violence during humanitarian crises. The chapter emphasizes the need to attempt the collection of forensic evidence even during conflict periods. However, this guidance does not provide specific operational direction such as to whether adjustments to procedure might be necessary due to lack of supplies or how to contact the police.

Kenya's Directorate of Criminal Investigations (DCI), part of the national police force, apparently has a corps trained to investigate international crimes. However it is unclear whether they are fully operational.

### Resource Limitations

Several informants noted that evidence-gathering by police is often hampered by insufficient resources. For example, police in all four countries mentioned that basic transport can be an enormous challenge that limits their ability to reach a crime scene or survivors. Police officers may also lack basic items such as stationery for statement-taking and case management. Similarly, airtime and basic communications were often underfunded. As one Liberian police chief tasked with sexual violence response explained,

This makes it difficult to make external calls for a case, like contacting the witness or arranging for health services. —*Representative of specialized police force, Liberia*

Furthermore, lack of resources negatively affected the ability of police officers to take witness statements. For example, the sheer lack of space in local stations often meant that police officers did not have a private and secure room in which to interview a survivor or other witnesses. This space constraint was believed to fundamentally affect interview dynamics and the quality of information obtained, since interviewees might feel rushed or overheard or otherwise distracted.



Hard-copy police case files in Gulu, Uganda. Photo by Amy Belsher.



Police motorbike at a WACPS police unit in Bong County, Liberia. At time of visit, the bike was held together by a bungee cord and had no fuel in it. Photo by Kim Thuy Seelinger.

Beyond increasing the budget for police activities and facilities, strategies seemed limited. In some cases, law enforcement—particularly units specializing in sexual and gender-based violence response—benefit from private donors, including UN agencies. For example, in Liberia, the Women and Children’s Protection Section (WACPS) within the Liberia National Police Force (LNP) has been largely supported by the UN agencies and international non-governmental organizations. In 2012, the United Nations Development Programme (UNDP) launched a pilot program in which it provided motorbikes to WACPS units in several counties, along with credit for petrol and maintenance work, under the assumption that increased mobility would enhance police capacity to respond to reports of violence and conduct proper investigation.

### Capacity and Competence

Although law enforcement in each of the four countries engaged in some degree of training on sexual and gender-based violence (described above in the “Reporting” section), this training did not always guarantee sufficient investigatory competence or capacity.

Training on particular aspects of investigating sexual violence was seen as insufficient across the board. Specifically, informants noted that training was often provided as a brief, one-time offering that was never reinforced, repeated, or updated. Informants across countries noted that there was insufficient diffusion of gender violence trainings through the police ranks generally. Gender imbalance, frequent relocation of officers, and a lack of prioritization of sexual violence as a crime were also named as challenges to effective investigation of these cases.

In terms of training, a few informants expressed the view that making training on the investigation of sexual violence more of a police priority—and offering ongoing, cumulative coursework—would improve police competence.

Much police practice around these investigations, though, seemed informally developed in the absence of clear guidance or protocols. For example, special FSU officers in Sierra Leone downplay their official “police” presence.



Family Support Unit of the Sierra Leone police. Photo by Lynn Lawry.

If the victim is a woman, they are interviewed by a female investigator who is in regular clothes. We want to make them feel as though they are talking to a family member.

—Police officer, Freetown, Sierra Leone

Also, the creation of succinct, accessible investigations “pocketbook guides” such as the one developed by the Norwegian Refugee Council and Ministry of Justice in Liberia was considered helpful for officers on the street.

Another emerging strategy to improve police efficacy in cases of sexual violence is the development of specialized police units that focus on these kinds of crimes.<sup>59</sup> For example, in Sierra Leone, the Family Support Units (FSUs) of the Sierra Leone police register an initial incident record when a survivor of sexual and gender-based violence comes to a police station to report a crime.

Similarly, in Liberia, specialized officers in the Women and Children’s Protection Section (WACPS) are trained to take a reporting survivor to a healthcare facility where healthcare workers should conduct an examination, care for injuries, document observed injuries, and collect medical forensic evidence such as bloody or torn clothes. They are also trained to identify, secure, and record details about a crime scene.

In Uganda, responses to crimes of sexual and gender-based violence are shared between the Children and Family Protection Unit and the then-Criminal Investigations Division (CID) of the Uganda Police Force.<sup>60</sup> The former is mandated to receive and open cases of sexual violence while the latter is mandated to pick up the in-depth investigative work. A new Gender-Based Violence Department within the CID was established in 2012 but was not yet operational in 2013, during the time of fieldwork.

However, even apart from their own resource limitations, specialized police units may not be a perfect solution. These units are often relatively small, lack their own transport to crime scenes, and have scant or uneven presence throughout the country. Also, as in the case of Liberia, informants noted that the existence of a specialized unit risks creating tension with members of the overall police force, who may see the unit as somehow better resourced if supported by international donors. Or the specialized unit simply may be



seen as having exclusive jurisdiction over crimes of sexual violence, and thus non-specialized police officers abdicate responsibility for these cases.

### Geographic Barriers

Another major challenge lies in disparate access to specialized services in rural versus urban areas. When a specialized unit within the police force exists in a rural area, it is often relatively small and not well supported. This can mean that survivors in distant towns do not have access to police with specialized training.

Liberia—where UN Police (UNPOL) has supported WACPS police units throughout the country—offers a rare and fascinating strategy to support police officers in remote rural areas. When a case of sexual or gender-based violence is reported in rural Liberia, local WACPS officers log a “flash report” on the incident. Informants explained that, ideally, flash reports are picked up daily by a local UNPOL team, which transmits them to a team of Monrovia-based UNPOL experts in sex crimes investigations. This advisory team then advises the local WACPS officers over the phone and internet, where possible.

### Coordination and “Chain of Custody”

A critical challenge in the collection of evidence is coordination between healthcare providers and police, both of whom are responsible for documenting cases of sexual violence and collecting physical evidence. Ultimately, both documentary and physical evidence from healthcare professionals is considered part of the investigation and must be transmitted to or through the police. However, weak linkages between these cross-sectoral processes can compromise the proper transfer of files or evidence, which can in turn weaken the prosecution’s case.

### Documentary Evidence

Documents relevant to sexual violence investigations include police reports, medical examination reports, official statements, photographs of injuries or crime scenes, or other personal or official records proving relationships or identity.

In the countries studied, the medical form or certificate was often noted as the most important—and only relevant—form of evidence apart from a survivor’s testimony.<sup>61</sup> In Sierra Leone, for example, researchers were told that although the law does not require a medical certificate signed by a doctor, cases sent to police or court would not proceed without one.<sup>62</sup>

Police forms may include a medical form an officer sends to a healthcare professional for completion, as well as a separate police incident reporting form. This police form may or may not be specific to sexual violence. For example, in Uganda, the police use one form to capture all cases involving general injuries (police form 3) and a separate form for cases of sexual assault (police form 3A).

Interviewees noted four main coordination challenges related to the documentation of sexual violence.

#### 1. *Forms: Lack of clarity as to who can fill what out, and how*

There are many forms relevant to the documentation of sexual violence in the countries studied. Some police forms document crimes generally and other forms record acts of sexual violence specifically. Some police forms require a medical provider to certify the details of a survivor’s physical examination, while others are internal medical reports that healthcare providers maintain for their clinical files.

In each of the four countries, it was often unclear *who* could fill out *which* form. Each particular form might carry a different weight in court. In Kenya and Uganda, at least, a medical certification form requisitioned by the police is often the most valued.

Where initial laws and regulations required an examining physician to fill out the medical certification of sexual violence for the police, this practice was gradually recognized as unrealistic in areas with a shortage of medical doctors. In many places, examination of a survivor falls instead to a nurse trained in sexual assault examination—but even these nurses are hard to find, especially in rural or local-level health clinics.

Further adding to the confusion in Kenya and Uganda is an outdated requirement that a “police surgeon” examine every survivor and complete a medical certification issued by the police. Until recently, there was only one “police surgeon” in all of Nairobi. This made it extremely difficult for many survivors to quickly secure a prompt appointment. As a result, a survivor was often forced to make two difficult trips to a doctor—first for immediate care at a local clinic and then to stand in a long line to see the “police surgeon” for official certification. Similarly, in Uganda, medical doctors who are part of the police force were previously the only providers authorized to complete the police medical record form. The practice of referring survivors to a police doctor for the completion of official forms often means that survivors must undergo two examinations. In addition, injuries have often healed by the time survivors manage to see the police doctor, making those medical reports less accurate.

Strategies in this regard include the expansion of authority to healthcare workers other than medical doctors or “police surgeons” to fill out the “medical report form” required by the police. In Kenya, the Sexual Offences (Medical Treatment) Regulations issued in 2012 expanded authority to nurses and clinical officers to produce medico-legal documentation, including filling out the Post Rape Care Form and P3 Form.<sup>63</sup> In Uganda, other medical doctors, clinical officers, and registered midwives are now permitted to conduct the medical examination and complete the medical portions of the police form documenting sexual assault.<sup>64</sup> However, these expansions of authority are not consistently understood at the local level.

In addition, cross-sectoral training that brings police and healthcare providers together to discuss the completion and transfer of forms documenting sexual violence is believed to clarify and strengthen the process. In Kenya, an initial cross-sectoral dialogue occurred in 2011 at a workshop on the Sexual Offences Act, which brought together policymakers and practitioners from healthcare, legal sectors, and community-based organizations to troubleshoot implementation challenges. Since then, other groups have provided ongoing training on relevant forms and other evidence collection. For example, Physicians for Human Rights conducted assessments of the knowledge and training needs of key actors in four areas that were affected by the post-election violence. They used the assessment results to tailor sector-specific and multi-sectoral trainings to meet the needs of healthcare providers, lab technicians, social workers, police and magistrates and strengthen coordination.

## 2. *Quality of documentation*

Lack of training among local healthcare workers as to how to document the results of a physical examination can result in incomplete or erroneous medical certifications.

In Sierra Leone, healthcare workers, police, lawyers, and judges have no common guidelines as to how to conduct or interpret forensic examinations; they also have no standard forms for documentation of injuries—police and healthcare workers often handwrite their notes on any available paper. Interviewees stated that the poor quality of medical certificates creates challenges in the justice process.



In Kenya and Uganda, key informants noted that healthcare providers and police officers often fail to fill out police forms correctly and accurately. In Uganda, an informant explained that sometimes police officers confuse the two possible forms and issue the wrong paperwork to survivors.

Strategies to improve the quality of documentation by healthcare providers include the development of forms specific to sexual violence cases, as well as changes to expand who can complete the forms. For example, the Rainbo Centers in Sierra Leone, which are one-stop centers offering specialized medical care, psychosocial support, and referrals to sexual violence survivors, use their own standard forms to document results of medical examinations in the absence of government-issued forms.

In Uganda, the use of separate police forms—one, for the “Injured Person,” that documents exam results and a more specific one that can be used for “Victims of Sexual Assault”—has created space for more detailed and comprehensive documentation of sexual violence-related injuries and health consequences. The legal language on the sexual assault form was recently simplified to make it more usable to health practitioners.

### *3. Accessing forms*

In all four countries, regulations stipulate that provision and completion of the medical certification forms required by the police in cases of sexual violence is free. However, interviewees mentioned complaints that survivors have been asked by police to pay for the form. Often this is couched as a need for funds to make a photocopy of the form. It is true that in a context where records and reports of sexual violence are still kept entirely in hardcopy, access to the actual paper forms is critical. When police officers run out of forms, they do not always have access to photocopiers and so must pay for copying services elsewhere. They reportedly pass these costs on to survivors.

In terms of strategies, NGOs in Uganda have made the police form more accessible to survivors. For example, the Uganda Women’s Network (UWONET) has made the form available online; Action for Development (ACFODE) has attached the form as an appendix to the training manual that it distributes to health practitioners and other key actors; and Action Aid provides money to survivors for photocopying the forms.

### *4. Transmitting forms*

Similarly, routing necessary forms through the right channels can be surprisingly challenging in countries where one needs a medical certification requisition from the police, certification completion from an examining healthcare provider, and return of a medical certification form back to the police for inclusion in a case file that will ultimately be transmitted to the prosecutor. While regulations increasingly clarify who can fill out the forms, actual provision is not always made as to who ferries the forms between sectors. Often this task falls to the survivor herself.

One strategy observed was the creation of a triplicate post-rape care (PRC) medical certification form in Kenya. One copy of this form remains with the healthcare facility where the examination is conducted; one copy goes to the police; one copy remains with the survivor. If the police and the healthcare facility have a close relationship, the healthcare providers may contact the police to pick up the police copy when it is ready.

## **Physical Evidence**

Relevant physical evidence can include items found at a crime scene, material collected from the body of the victim (such as blood, semen, saliva, or hair), and other items such as torn clothing.

As noted above, the police and health sectors have capacity and competence challenges with respect to collecting physical evidence. Police often lack transportation to reach crime scenes and thus are limited in their abilities to collect physical evidence on site. Healthcare workers at local clinics are rarely trained to provide post-rape care or examination, so only survivors who can reach a referral hospital have a fair chance of receiving proper services. Where a forensic laboratory exists at all, it is usually in the capital and may not have the ability to analyze DNA evidence.

However, because of the interwoven roles of healthcare and law enforcement professionals in responding to cases of sexual and gender-based violence, one of the most important challenges is also a relatively invisible one: the relationship between the two sectors and their processes.

The overarching challenge in maintaining “chain of custody,” or clean and uncontaminated route of transmission of evidence from one handler to another, is often the weak link between health and law enforcement sectors.

These actors are not always sufficiently connected to facilitate seamless transfer of forensic evidence from those who collect it to those who can analyze it. In theory, hospital staff might collect a specimen of blood or semen via a post-rape examination; the specimen requires proper storage until law enforcement picks it up either to submit to a forensic laboratory for analysis or directly to the prosecution as part of the case file.<sup>65</sup> For example, one informant in Liberia noted,

Sometimes an officer will take evidence to the county attorney, but then it goes missing and no one can find it. —*Representative, specialized police force, Liberia*

As first responders, police officers are not always sufficiently trained in the management of evidence in sexual offense cases. They may not know to facilitate a survivor’s access to healthcare support or what to collect at a crime scene or how to handle a post-rape examination specimen held at a healthcare facility.

Moreover, informants reported that some healthcare providers do not even bother to collect forensic evidence after medical examination because they do not have storage space for it, or police do not pick it up from the facilities. Often, even though it is part of their mandate, the police are not funded to transport samples to the lab, which can be a great distance from the station where they are assigned.<sup>66</sup>

As one Ministry of Health representative in Kenya explained regarding the challenges of getting health samples admitted as evidence:

The health provider may document everything and take all the samples, but she can’t do anything with them because the law says the police have to come.

Simply, the sample must *reach* the lab—meaning there must be successful communication between healthcare workers who gathered the specimen and the police, who must then pick up the envelope or box from the healthcare facility, index it as part of the case file, and transfer it to the lab for analysis or to the prosecutors or court itself. If any actor in the chain of custody has mishandled the sample, it may be contaminated and even a state-of-the-art laboratory will not be able to generate a DNA profile from it.

Strategies to enhance the preservation of the “chain of custody” include cross-sectoral guidance on the collection and management of forensic evidence. This may come in the form of a national policy on medico-legal services, as has been drafted in Uganda. Or it may come in the form of cross-sectoral standard operating procedures (SOPs) used by health, law enforcement, and forensic actors, as was developed in Kenya.

Truck donated to the Liberian National Police by the Swedish Police and Swedish International Development Agency to transport forensic samples. Photo by Michelle Ben-David.



Cross-sectoral trainings that convene healthcare workers, police, prosecutors, forensic analysts, and judges to discuss the overall flow of physical evidence—and requirements for admissibility in court—are emerging as well. Providers in Kenya have reportedly benefited from the 2011 Sexual Offences Act Implementation Workshop organized by the report authors, as well as ongoing cross-sectoral trainings provided by Physicians for Human Rights.<sup>67</sup>

The successful prosecution of sexual violence requires specific knowledge and sensitivity on the part of prosecutors and judges. Informants noted several key challenges related to the collection and preservation of evidence, witness cooperation, and competence of those involved with moving cases of sexual violence through trial.

## **Prosecuting Sexual Violence Committed during Conflict Periods**

Accountability for conflict-period sexual violence has generally not transpired until after the conflict period, if at all. National governments have certainly employed truth commissions and commissions of inquiry to retrospectively address sexual violence that occurred during conflict. However, prosecution and conviction for these crimes falls to the domestic and international prosecutors and courts.

Unfortunately, researchers found no cases of conflict-period sexual violence—as a war crime, crime against humanity, act of genocide—lodged in the domestic courts. Despite repeated recommendations by Truth and Reconciliation Commissions or other commissions of inquiry to investigate and prosecute clear instances of mass rape or politically motivated sexual violence, state prosecutors have yet to bring a case of sexual violence as an international crime through the domestic courts of Kenya, Liberia, Sierra Leone, or Uganda.

## **State-Led Efforts**

At the time of writing, there have been no successful state prosecutions of perpetrators of sexual violence in domestic court systems during the conflicts in Kenya, Liberia, or Sierra Leone. (The UN Special Court for Sierra Leone, which sat outside Sierra Leone’s national judiciary, issued convictions for crimes of sexual violence as a crime against humanity and a war crime under international criminal law, but there were no similar cases brought in the regular judiciary.)

In Uganda, although the Directorate of Public Prosecutions (DPP) did try soldiers for crimes including defilement and murder during the conflict period, it prosecuted very few rape cases. These cases were brought under domestic penal law provisions, not international criminal law. Furthermore, the DPP did not try to prosecute rebels accused of crimes of sexual violence. As a key informant from the DPP explained, to do so would be difficult and dangerous:

You can’t get rebels; this would be a death warrant.

—Prosecutor, Northern Uganda

Researchers learned of three preliminary strategies government actors have taken to address sexual violence as an international crime:

1. Creation of an international crimes court in Uganda;
2. Task force review of cases involving sexual violence from Kenya's post-election violence period;
3. Prosecutorial guidance on sexual violence as an international crime in Kenya.

#### *An International Crimes Court in Uganda*

In 2008, the Ugandan government established the International Crimes Division (ICD; formerly known as the War Crimes Division) of the High Court, following peace talks between the various sides in the conflict. The hope was that by returning accountability to a domestic entity, as opposed to the ICC, the court could assist in encouraging a resolution to the conflict.<sup>68</sup> Two years later, in 2010, the Ugandan Parliament passed an International Criminal Court Act (ICC Act). Taken together, these features allow the prosecution of serious international crimes in Uganda's domestic legal system.

Cases in the ICD present several challenges. Some challenges, such as community and family pressure and stigma, complicate cases of sexual and gender-based violence before, during, and after the armed conflict period. However, there are other complications that may be exacerbated by the conflict context. For example, according to a key informant in the ICD section of the DPP, many of the victims who were forcibly married to members of the Lord's Resistance Army do not view themselves as victims. Some women, even those who were forcibly married, actively oppose prosecution of their husbands for these crimes. Other women simply want to move on with their lives and do not wish to participate in trials.

Prosecutors also have had a hard time finding cases to bring forward because most crimes were not reported during the conflict period and locating perpetrators has been a challenge. And, while the ICD has jurisdiction to hear cases involving Uganda's security forces, including the Uganda People's Defense Force (UPDF), many victims remain unwilling to testify against soldiers. Moreover, some cases against UPDF soldiers were already tried in military courts, leaving the ICD unable to review the claims.

Finally, it is unclear how Uganda's Amnesty Act has impacted the ICD. If an accused person obtains amnesty before he or she is formally arrested, the DPP cannot prosecute him or her in any Ugandan court. However, if the accused applies for amnesty only after arrested, the DPP decides whether or not he or she qualifies. This question is currently on appeal before Uganda's High Court.<sup>69</sup>

#### *Task Force Review of Sexual Violence Cases from Kenya's Post-Election Violence Period*

A second example comes from Kenya. In 2012, after pressure from civil society to show a domestic response to post-election violence cases, Kenya's DPP created a special task force for the review of case files stemming from the post-election violence period. The task force was given six months to review and reexamine all files received to determine which cases might be actionable and whether additional suspects could be identified.

The task force set out to review approximately six thousand files received in relation to the 2007–08 post-election violence.<sup>70</sup> It divided the case review into three categories: general offenses, murder, and sexual and gender-based violence. In each category, the DPP determined that most case files did not contain sufficient evidence to support prosecution and were thus not actionable. In cases of sexual and gender-based violence, the task force found no forensic evidence and only witness statements that were late, incomplete, and vague. As a representative of the task force reportedly explained:

We are not saying that people were not raped, gang-raped . . . but the files were brought to us four years down the line; the reports were written one year [after the crimes].<sup>71</sup>

One noted disappointment that DPP's review would not likely lead to significant movement of cases through the courts, but conceded that there was not much a prosecutor could do with no evidence.

Another noted limitation is the application of only domestic legal provisions, such as the Criminal Procedure Code and Penal Code, which fail to capture elements necessary to prosecute acts of violence as international crimes.

*Kenya: Prosecutorial Guidance on Sexual Violence as an International Crime*

Prosecutorial guidance on sexual violence as an international crime was a strategy noted in Kenya, where the Office of the Director of Public Prosecutions published a substantial handbook in 2013. Entitled *Ending Sexual & Gender-Based Violence—A Trainer's Manual: Guidelines for Prosecuting Sexual and Gender-Based Violence Offences*, it is notable in that it includes a chapter on prosecuting sexual violence as an international crime. However, that discussion is mainly conceptual and does not include specific considerations or practical steps for case development. Also, Kenya's DPP has a separate unit tasked with prosecuting international crimes. However, it remains unclear if or how this unit would coordinate with the prosecution unit focused on sexual and gender-based crimes.

### Civil Society Efforts

Despite political inertia and institutional incapacity at the governmental level, civil society actors are using brave and creative strategies to pursue justice for survivors of conflict-period sexual violence. Researchers noted two remarkable examples in particular:

1. A class action case regarding post-election violence rape in Kenya;
2. Criminal prosecution for atrocities—including sexual violence—committed during the first Liberian civil war, brought in Belgium under the theory of universal jurisdiction.

Both are briefly addressed below.

*Kenya: Accountability through Public Interest Litigation of Constitutional Rights*

In Kenya, where no viable domestic tribunal has been established to try cases arising out of the 2007–08 post-election violence, a small group of civil society groups have lodged a case in the High Court of Kenya to vindicate the rights of survivors of sexual violence committed during the crisis.<sup>72</sup>

Led by the Coalition on Violence against Women (COVAW), this coalition has used the practice of public interest litigation (or impact litigation) to file a complaint under constitutional law, claiming that the Kenyan government was remiss in its obligation to protect Kenyan citizens, including the eight men and women bringing the case.

We did not advocate for a criminal case as we are not seeking to prove individual crimes or individual criminal responsibility. Rather, in this constitutional claim, we are trying to highlight the range of duties and responsibilities that the state has failed to discharge. For example,



the duty to properly investigate and prosecute crimes. Whilst we would also like individual perpetrators held to account for sexual and gender-based crimes, we would also like the state (including the police) to recognize the role they played in permitting, acquiescing to, or even perpetrating the sexual and gender-based violence. —COVAW representative, Kenya

The petition incorporates international law, domestic law, and provisions of both Kenya's old constitution (which was in force at the time of the post-election violence) and new constitution (2012). Petitioners also rely on Pan-African case law to highlight comparative examples that may guide the court's decision. A lawyer leading the litigation effort explained that petitioners made the strategic decision to rely on Kenyan law, which reflects African values, beliefs and culture, only using international instruments as support.

We did not want to be caught up in the argument that the government of Kenya is facing an onslaught from "declining imperialist powers." That would draw attention from the impact and purpose of the case into a more political space, which is undesirable.

—COVAW representative, Kenya

Petitioners hope for groundbreaking precedent establishing the government of Kenya's active responsibility in the commission of sexual violence during the 2007–2008 post-election violence. They also hope for recognition of state discrimination against victims of sexual and gender-based violence in the provision of support and assistance, lethargy in providing accountability for these crimes hence creating and encouraging an environment within which SGBV prevalence thrives, and, a base rate for damages caused by government inaction. They also seek an expanded understanding of "comprehensive justice" for survivors of sexual and gender-based violence that includes psychosocial support, physical security, and apology and recognition from the state. They also hope to show the inadequacy of existing law (Kenya's 2006 Sexual Offences Act) to address sexual violence experienced during conflict periods and mass atrocities. The case is pending.

#### *Liberia: Accountability through Universal Jurisdiction*

Another creative litigation strategy comes out of Liberia, where atrocities committed during the country's two civil wars have eluded prosecution in domestic or international tribunals. The ICC has not stepped in to address war crimes or crimes against humanity committed in Liberia, largely because the conflict ended in 2003, one year after the ICC's jurisdiction begins. The Special Court for Sierra Leone *did* try the former president of Liberia, Charles Taylor—but only for actions in his neighboring state.<sup>73</sup>

To fill this accountability gap, a small group of Liberian human rights defenders has quietly documented atrocities committed during the conflict periods by interviewing survivors and creating dossiers on events, places, and perpetrators. This Liberian group, the Global Justice and Research Project (GJRP), is supported by its Swiss partner, Civitas Maxima,<sup>74</sup> which transmits the dossiers to federal authorities in European countries that can accept atrocity cases in their domestic courts under the principle of universal jurisdiction.<sup>75</sup>

In this way, GJRP has submitted documentation of atrocities committed by Charles Taylor's former NPFL artillery commander, Martina Johnson, who had moved to Belgium after the second civil war. The Liberian human rights defenders collected survivor testimony describing Johnson's involvement in several atrocities, including sanctioning rape by her subordinates and the sexual torture of a young man.

After receiving GJRP's documentation in 2013, Belgian federal authorities opened their own investigation. On September 17, 2014, Belgian investigators arrested Johnson.<sup>76</sup> Her case is the first attempt to prosecute war crimes and crimes against humanity committed during Liberia's first civil war. A second



Portion of public mural by the Centre for Rights Education and Awareness (CREAW), explaining how a case moves from the police to the courtroom in Kenya. Photo by Kim Thuy Seelinger.

arrest, of former leader of the United Liberation Movement rebel group, Kosiah Alieu, was made public in Switzerland in January 2015.<sup>77</sup>

Partnerships between grassroots fact-finding teams and lawyers who can review and transmit these dossiers to federal prosecutors abroad is a rare but potentially promising strategy for civil society groups who see little chance of prosecution in their home countries. This does not help to build domestic prosecutorial or judicial capacity to address these crimes. However, it may be an option where such cases are not practically or politically feasible at a given time.

### Prosecuting Sexual Violence Committed Today

The prosecution of day-to-day sexual violence is challenging in and of itself. Informants described struggles prosecutors and judges face when handling these cases, many of which are linked to challenges earlier on in the case development process.

#### Insufficient Proof

Lack of sufficient proof plagues prosecutors, who may be unable to proceed, much less secure convictions, in cases of sexual violence. Evidence is elusive for several reasons, including the withdrawal of witnesses or the sheer lack of documentary or physical evidence.

#### *"Compromising" Cases*

One major prosecution challenge interviewees identified is the community pressure to "compromise cases," which can cause victims and other witnesses to retract their statements or even disappear. Mistrust of the criminal justice system to deliver fair outcomes to the poor, as well as frustration with immense court delays and inefficiency, can cause survivors and their families to abandon cases and seek informal settlements with the perpetrator or perpetrator's family.<sup>78</sup> Informants noted that even where a survivor stands firm, other witnesses may change their testimony and undermine the survivor's account.

Kenya's Sexual Offences Act (SOA) of 2006 permits case withdrawal only by the attorney general,<sup>79</sup> offering one strategy to prevent witnesses from pulling out of a case due to community pressures or intimidation from a perpetrator. This means that once initiated, a case cannot be withdrawn from court without the express permission of the attorney general through the DPP. This measure has its disadvantages to the survivor, however, and does not prevent the compromise of a case *before* a trial is initiated.

Where the risk of withdrawal is rooted in a survivor's fear for her own safety, some prosecutors are able to secure temporary shelter for survivors who proceed to court. However, most remarked that there is a dearth of available shelter space. Much of it is short term and run by civil society organizations.

### *Physical and Documentary Evidence*

Across the four countries studied, prosecutors and women's rights advocates mentioned flaws in the collection or storage of physical evidence that destroyed their probative value before the start of trial. For example, in some cases bloodied garments or cervical swabs were not packaged properly. In others, investigators placed their fingerprints on an object found at the crime scene.

Even where a physical sample was delivered intact and unspoiled, the additional challenge of proving an unbroken chain of custody (as discussed earlier in this report) could complicate cases and render good evidence inadmissible.

Further, at the time of fieldwork, DNA analysis was only available in Kenya and Uganda, with limited testing of other forensic material possible in Liberia. And, even then, prosecutors noted difficulties in obtaining timely analyses.

Finally, one informant expressed concern that judges did not always understand the nature or limitations of the evidence: an inability to generate a DNA profile from evidence in the case file that matches DNA taken from the suspect does not always mean that he should be acquitted. It may simply mean there was not enough uncontaminated material from which a DNA profile could be generated.

Challenges also arose in the quality of the medical certifications. For the reasons noted in the above section on Investigation, medical reports requested by the police were often improperly completed, reducing their probative value in court.

In countries such as Kenya, where police and healthcare providers complete separate reporting forms, confusion can arise in court. For many years, a common problem in Nairobi was the potential contradiction between post-rape documentation provided by a police doctor (called a police surgeon) and medical records provided by a healthcare provider. Survivors might first seek medical care at a clinic or hospital, when injuries are fresh and more easily documented. Those who are finally able to secure a meeting with the police surgeon, however, might do so days or weeks later, when bruises, blood, and semen have long disappeared. As a result, the report from the police surgeon often reflects diminished injuries. In court, this probative deficiency may negatively impact the prosecution's case, casting doubt on the true extent of injury.<sup>80</sup>

In terms of other documentation, prosecutors also noted that initial reports and statements taken by police officers were often weak, plagued by inconsistent or omitted facts, or failed to address key elements of the crime charged.

One positive strategy was the improved coordination between prosecution and law enforcement. It is typical for prosecutors to turn a case file back to investigators with instruction as to what additional evidence should be gathered. In Liberia, this cooperation is formalized by an MOU between the SGBV Crimes Unit (CU) and the Women and Children's Protection Section (WACPS). The MOU provides that before charging

an offense, the WACPS officers will consult with the SGBV CU prosecutors to make sure the evidence is sufficient and there is probable cause to charge for all the crimes committed.

### Prosecutorial and Judicial Expertise

Effective prosecution and trial of sexual violence in the four countries depends on enhancing the competence of prosecutors in sexual violence cases—including throughout rural areas—as well as enhancing the competence and sensitization of judges.

#### *Prosecutorial Competence*

Prosecution of sexual crimes requires familiarity with relevant laws, complex forms of physical and documentary evidence, any protective measures available to vulnerable witnesses, and ways to support survivors who must testify about painful and often heavily stigmatized experiences.

The criminal justice systems in Kenya, Sierra Leone, and Uganda feature an adversarial process in which most sexual violence cases seen in the lower level courts are handled by “police prosecutors.” These “police prosecutors” are not lawyers. They are senior police officers who receive some training in court procedure and trial advocacy. Researchers did not hear of any training on sexual violence cases offered to police prosecutors in any of these three countries. In Kenya, where a case is deemed to be more serious, full-time prosecutors from the DPP will take the case on.

One fundamental strategy for enhancing prosecutors’ competence is to develop specific guidelines. This is necessary because, until sexual and gender-based crimes are covered in general legal education and trial advocacy texts, there is no other resource available to address specific challenges that can arise in these cases.

For example, in 2009, Liberia’s Ministry of Justice worked with groups such as the Association of Female Lawyers of Liberia (AFELL), American Bar Association, the Carter Center, UNHCR, and the UN Mission in Liberia (UNMIL) to develop the *Sexual Assault and Abuse Prosecution Handbook*. Written in clear, concise language, the handbook covers practical aspects of all stages of a case, including post-trial practice. It also covers professional ethics and includes a chapter summarizing all relevant laws, as well as several helpful checklists and practice pointers.<sup>81</sup>

Another strategy to foster and consolidate expertise on sex crimes prosecution is to create some degree of unit specialization on these cases. Researchers learned of an exclusive and stand-alone prosecution unit piloted in Liberia and a combination of mainstreaming and specialized prosecutors in Kenya and Uganda. (In Sierra Leone, sexual and gender-based crimes are simply mainstreamed into the regular police prosecutors’ docket.)

Another challenge is reach. Providing prosecutorial expertise in sexual and gender-based violence is particularly difficult in rural areas, where the specific expertise and resources of the capital do not easily extend. In Liberia, for example, SGBV CU operates only in Monrovia (Montserrado County) and at a satellite hub in Gbarnga County, from where staff then reaches out to Lofa and Nimba counties.<sup>82</sup> Thus, in Liberia’s eleven other counties, prosecution of sexual and gender-based violence is left to county attorneys, who are overworked, under-resourced, and lack particular experience in these kinds of cases.

Until Liberia’s special sex crimes prosecution unit can be expanded, its lawyers offer training programs for prosecutors in distant counties. The SGBV CU also monitors the county prisons to guarantee that the accused do not stay in pre-trial detention for longer than necessary.

Other members of the SGBV CU staff help close the divide as well: case liaison officers (CLOs) travel through the three counties under the unit’s jurisdiction to monitor case management and conduct

awareness-raising activities. They also visit rural WACPS units to confirm the proper transfer of reported cases over to the county attorney's office, ensuring that files have not fallen through the cracks.

Finally, a bit of technology also helps bridge the urban-rural divide. Liberia's SGBV CU has an arrangement with a major cellular telephone company, Cellcom, that permits all Cellcom users to call the SGBV CU for free. Non-Cellcom users can dial the SGBV CU hotline and hang up immediately; Cellcom allows hotline staff to return calls for free. This system has worked well to extend the SGBV CU's advice to survivors, family members, service providers, and law enforcement officials outside Monrovia.

### *Judicial Competence*

Similarly, interviewees noted a need for improved competence in sexual violence adjudication among members of the judiciary. This means familiarity and facility with laws relevant to sexual violence—especially laws that have been passed recently. This also means sensitization as to the nature of sexual violence and its impact on survivors.

[I] get very angry at the magistrate when he asks a nine-year-old whether she was raped at 4 or 5 p.m. —*Practitioner, NGO, Kenya*

There is a perception: If you're sexually active, no one can rape you. And I've heard magistrates in the court of law saying, "Did you scream when this man was raping you? Who heard her scream? If no one heard her scream, then there isn't a problem. There was no crime committed." —*Women's rights advocate, NGO, Liberia*

One strategy used to improve the competence and sensitization of judges and magistrates is the development of clear guidelines to implement existing laws relating to sexual violence. For example, while Kenya's relatively forward-thinking 2006 SOA offers various protections and support mechanisms to survivors testifying in court, judges and magistrates have not always found them clear or easy to implement. Following the Sexual Offences Act Implementation Workshop (2012), advocates who had identified the need for court guidance mobilized to draw the attention of Kenya's newly appointed chief justice. Responding to the amplified request from civil society and even judges themselves, the chief justice released judicial guidance on the implementation of the SOA in July 2014.<sup>83</sup> With it, judges and magistrates throughout Kenya finally had a blueprint for presiding over cases arising under the 2006 act.

Another strategy is more structural: the development of specialized courts or proceedings. While cases in Kenya and Uganda are heard in the general magistrate courts and appealed through regular judicial channels, adjudication of sexual and gender-based crimes in Liberia and Sierra Leone is handled by specialized courts.

Liberia's "Court E" is a criminal court (stand-alone in the capital, with special divisions in District Courts beyond Monrovia) with an exclusive focus on sexual offenses. This specialization is believed to enhance expertise for the judge and specialized prosecutors, who work exclusively on cases involving sexual and gender-based crimes. In addition, the court has received attention for its significant witness support measures, which include the option for *in camera* testimony via video projection from a closed "witness box" at the back of the courtroom.

For its part, Sierra Leone's Ministry of Justice has kept adjudication of sexual and gender-based violence cases in the basic court system, but moved hearings to special Saturday sessions so survivors can come to court on less crowded days and their cases could be fast-tracked.





“High Court in Progress” sign, Gulu, Uganda. Photo by Amy Belsher.

The varying degrees of specialization in the courts of Kenya, Liberia, Sierra Leone, and Uganda all present different challenges. In Kenya and Uganda, where sexual and gender-based violence cases are mainstreamed through lower-level magistrate courts, all magistrates are theoretically competent to try cases arising under applicable gender laws. However, in reality, there is no guarantee that a presiding magistrate will be sufficiently familiar with the evidentiary and victim-support challenges posed by sexual and gender-based crimes to ensure an efficient and effective trial.

In Sierra Leone, it is unclear if moving all sexual violence cases to a Saturday actually has improved service, convenience, or justice for survivors. One critic noted:

No one is watching . . . there is no data on convictions, and if the courts and officials were truly committed to justice for survivors of sexual and gender-based violence, these courts would be [held] during the week, on regular business days, where transparent records are kept and where judges and lawyers are to be during working hours.

—*Representative of international agency, Sierra Leone*

In Liberia, despite its impressive technology, Criminal Court E shares fundamental challenges with her sister courts, including limited administrative support, non-appearing witnesses, and insufficient evidence. Court E was also intended to fast-track cases of sexual and gender-based violence. However, it suffers a serious backlog in cases—partly because it is tied to a slow jury selection schedule, as are its sister criminal courts. One informant felt that it may have been more efficient to train *all* judges on sexual violence cases than to create the resource-intensive Court E.<sup>84</sup> However, others felt that it remains important to ensure a dedicated space for an otherwise ignored crime. At the time of fieldwork, it was unclear how and when this specialized space and expertise would be provided to circuit courts throughout Liberia’s counties.

## Victim and Witness Support

The criminal justice process can be both confusing and intimidating. Victims and witnesses need to feel safe and confident when they come forward. This need is important in its own right, and it is also critical to the objectives of the prosecution.

### *Witness Intimidation*

Witness intimidation is a serious problem, particularly for survivors. When perpetrators of sexual violence have more social, financial, or physical power than their victims, the threat of retaliation or harm to victims for reporting their crimes is quite real. Victims may also be vulnerable to threats or other community pressure to abandon their testimony or settle cases with the perpetrator's family.

A survivor who does agree to testify needs support even before stepping into court. One judge in Kenya mentioned that witnesses often want to testify but are too scared. He acknowledged that there is certain safety in the courtroom, but of course the system cannot protect survivors completely. They have nowhere to go outside of the court—nowhere to sleep without fear, no way of traveling to and from the courthouse without fear of harassment from the perpetrator or his family or his comrades.

Witnesses apart from survivors were also reported to be very reluctant to testify. Informants—some of whom had served as expert witnesses before—mentioned inconvenience, lack of funding for transportation, and fear of being examined in court as primary reasons.

If it is a weekend, the survivor has to wait until Monday to be seen; even if she goes to the hospital, the doctors there will refuse to see her and tell her to come to us on Monday because they don't want to testify or be required to go to court.

—Staff member, NGO, Sierra Leone

It is difficult to get medical officers to come. Some fear court, and others say they are not properly facilitated. —Prosecutor, Northern Uganda

One strategy employed to help survivors feel safe in testifying is placement into a temporary safe shelter, to shield them from community pressures to withdraw or direct retaliation on behalf of the accused. Researchers noted that most of the temporary safe house programs in Kenya, Liberia, Sierra Leone, and Uganda seem to be privately run—often by women's rights groups or churches. However, researchers also learned of a few new safehouse initiatives receiving support from the Ministries of Gender in Liberia and Uganda.

Only in Kenya did researchers encounter a formal government program offering safe shelter and even relocation for witnesses involved in criminal proceedings. Established by the Witness Protection Act of 2010, Kenya's National Witness Protection Agency protects survivors of sexual and gender-based violence among the victims and witnesses it houses. Though typically focused on high-profile white-collar, political, or organized crimes, the agency has provided physical shelter and even livelihood support for survivors of sexual violence as well. However, eligibility for the witness protection program is limited to those individuals who have cases in court; it is thus not an option for most survivors who never make it that far.

A strategy to address other witnesses' fears of testifying is the development of clear, layperson's guidance for healthcare workers and others who conduct forensic examinations and may be called into court.

For example, in Liberia, prosecutors at the SGBV CU are developing the *Handbook on the Use of Expert Witnesses*. The *Handbook*, in draft form at time of fieldwork, covers practical strategies such as preparing a

witness for examination, establishing a witness's expertise, and framing effective questions for different scenarios. The handbook also contains diagrams of the courtroom, with a clear explanation of key actors and where they sit. Though developed by the SGBV CU, the *Handbook* promises to be a valuable resource for prosecutors and witnesses in other types of cases as well.

### *Supporting Witnesses in Court*

Once in court, survivors and other witnesses continue to need support. Criminal trials are highly formalized and technical affairs where the court environment and judges can be intimidating. Sitting alone on the witness stand can be terrifying. Combined with the stigma and risk of retaliation in cases of sexual and gender-based violence, survivors may need additional support or protection to testify calmly and fully.<sup>85</sup>

For example, in some places, courts allow for *in camera* testimony, in which a witness can testify without being in physical proximity to the defendant. In Liberia's capital, for example, survivors testifying in Criminal Court E do so via simultaneous video projection from a small annex in the back of the courtroom. The judge, lawyers, jury, and others in the courtroom can hear the survivor speak, but they see only the back of her head. In rural areas, however, this technology is unavailable, so groups such as Medica Mondiale and the UNDP are reportedly developing mobile screens that can be erected for sexual violence cases in regular courtrooms. Similar efforts to create a protective partition are under discussion in Kenya.

To protect survivors from public exposure, their names may be redacted from court records. In Liberia, court documents automatically refer to survivors only by their initials. In Kenya, the 2006 SOA provides for a similar redaction of names in court records.

Another essential need for those testifying in court is psychological support. Survivors who must testify or otherwise confront their abusers in an unfamiliar space may experience tremendous intimidation and anxiety. Researchers detected only one systematic approach to providing comfort in court: in Liberia's capital, Victim Support Officers (VSOs) from the SGBV CU accompany the survivor to trial and sit nearby for the duration of the proceeding. VSOs also accompany the survivor in and out of the courtroom via a special door, helping her avoid contact with the accused or members of his family.

### *Working with Child Victims*

Few special provisions are afforded to child witnesses, who may have specific needs for support in court. Sometimes a child witness is scared and unprepared, but the court is not sensitized to detect this discomfort and much less to do anything about it. Interviewees noted that, despite high numbers of reported cases involving child victimization, there are not enough social workers or child specialists trained to provide support during the court process.

Two legal aid organizations in Kenya offer psychosocial support as part of comprehensive case management for children who have been sexually abused. Both the International Justice Mission (IJM) and CRADLE provide long-term counseling (one to two years) to children going through the justice process.

According to a staff member at CRADLE, it is important to have a trained counselor present when a child is testifying in court so that she or he can communicate effectively and feel supported. Follow-up counseling sessions are also critical, as CRADLE staff generally observe significant positive changes in a client's emotional well-being after six months of counseling sessions. Representatives of both CRADLE and IJM noted that post-trial counseling is particularly necessary in the case of an acquittal, where it is important to explain to the child what the acquittal means—that the decision was based on a lack of evidence to make a conviction rather than because no one believed their story. They also noted that it is important to plan

for the safety of children who must return to the same community. To expand its capacity to offer ongoing psychosocial support to child survivors, CRADLE works with a pool of volunteer or pro bono counselors in various locations, who are trained in the program's model.

Another strategy may be legislation that sets standards to support and protect child survivors in court. For example, Uganda's Children's Act, adopted in 1997, outlines the rights of the child and contains a number of procedural requirements for cases involving children. The act mandates that children must be tried in privacy, that the procedure must be simple and child-friendly, and that the parties, including the judge, must dress informally. Because of this law, cases for children are often held *in camera* or remotely, with the child's appearance shielded from the public.

# CONSIDERATIONS FOR INTERNATIONAL CRIMES OF SEXUAL VIOLENCE

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Local actors and institutions tasked with responding to day-to-day cases of sexual violence are also key to improving response to, and collecting evidence of, sexual violence as war crime, crime against humanity, or act of genocide. These local healthcare facilities, police stations, and community-based organizations are known to their constituents and often maintain the most consistent presence in their regions, particularly in rural areas. Thus they may serve as true first responders in emergency periods. Consequently, their ability to detect, respond to, and document cases of sexual violence generally may also have implications for their ability to address cases of sexual violence as an international crime.

Based on the findings of this study, the Human Rights Center highlights five key considerations regarding domestic capacity to address international crimes of sexual violence.

## 1. Improving survivors' ability to report crimes of sexual violence committed during emergency periods can promote accountability for international crimes of sexual violence later.

As mentioned earlier, conflict settings can exacerbate preexisting social and structural barriers to reporting crimes of sexual violence due to heightened security and mobility challenges, damaged health and police infrastructure, shortages of health and law enforcement staff, breakdown of community-based systems, and, in some cases, the additional stigma associated with rape committed by a particular ethnic or rebel group. Furthermore, if the state itself is implicated in the violence, there may be no safe channels for reporting crimes committed by government actors.

These barriers can not only impede access to essential medical care and psychosocial support for survivors, but can also result in missed opportunities to collect evidence critical to later prosecution. This research suggests that interventions that address barriers to reporting and create channels for reporting and accessing care during emergency periods are necessary to improve chances of accountability later. Facilitating survivors' reporting of their individual experiences of sexual violence also may contribute to the later prosecution of *international* crimes, after the acute emergency period has ended and more is learned about how a single survivor's experience fits into the broader scope of violence.

Our research further suggests that many of the same civil society organizations providing day-to-day psychosocial, legal, and shelter support to sexual violence survivors also have a major role to play during and after conflict periods. They can both support survivors during emergency periods and keep them updated on political and legal developments surrounding their individual experiences afterward. If a survivor's ordeal is later understood to have been part of a larger strategic attack, for example, opportunities to contribute



testimony at domestic and international tribunals about crimes against humanity may arise years after the fact. Local civil society organizations that work with survivors and have secured the trust of community members are uniquely situated to reach survivors and facilitate their participation in these fora.

## **2. Witness protection is a daunting but essential task.**

Witness protection is the linchpin of accountability. Without a sense of security, survivors and other witnesses often do not feel comfortable reporting their experiences or participating in investigation and prosecution. The need to offer meaningful protection has challenged both state and civil society actors in the case study countries; witness protection is a consistently complex and resource-intensive endeavor, and witness protection programs in these countries are rare.

Although this study did not explore witness protection in depth, we found that unique challenges arise in the protection of survivors affected by conflict-period sexual violence. First, shelters and safehouses face the same infrastructural and security risks during periods of armed conflict as most other institutions do, so their ability to remain operational and house survivors fleeing harm amid mass violence can be limited. Furthermore, relative risks can change. Sheltering a woman from an abusive spouse poses myriad challenges in times of peace (where to house her confidentially, which security measures to use, how long to house her, whether her children may accompany her), yet sheltering someone from a rebel group, armed actor, or even the state apparatus can pose additional dangers. Threats may persist long after the conflict period has ended, particularly if there is a later possibility of prosecution before an international tribunal.

Whether basic witness-protection mechanisms offer sufficient security in cases involving parties to armed conflict requires further research and assessment.

## **3. The health sector plays a critical role in response to, and accountability for, conflict-period sexual violence.**

Informants interviewed for this study repeatedly noted that medical reports documenting a survivor's physical condition were the most important, and often the only, evidence available in sexual violence cases apart from the survivor's own testimony. Survivors who wish to bring their cases into the formal legal system rely on critical information from health facilities.

Whether they are nurses and doctors at a local hospital or an international humanitarian medical corps, healthcare providers play a critical role in documenting the nature and extent of sexual violence that occurs during humanitarian crises as well. Furthermore, increased interest in accountability for sexual violence as an international crime contributes to the expectation that healthcare providers in these settings should play a role in the collection of evidence to facilitate later prosecution of war crimes or crimes against humanity. For example, medical records that indicate a pattern of specific genital injuries in a community may be evidence of a crime against humanity.<sup>86</sup> New tools, such as the International Protocol for the Documentation and Investigation of Sexual Violence in Conflict, attempt to guide healthcare providers as they capture court-admissible evidence of sexual violence as an international crime.

However, the dual role of healthcare providers in humanitarian settings raises several practical and ethical questions. What can healthcare providers reasonably be expected to do in terms of collecting evidence in a conflict situation, given their primary mandate to provide emergency medical care to the affected community? What are the implications for both providers' and survivors' safety if healthcare providers in active conflict situations collect evidence? Further dialogue and clarification on these issues is needed.

#### 4. The emergence of specialized health, police, prosecution, and judicial units has the potential to optimize accountability for sexual violence as an international crime.

In the four countries studied, researchers observed that special health, police, prosecution, and even judicial units focused on sexual and gender-based violence have begun to emerge. These include the Children and Family Protection Units of the Uganda Police Force, the Sexual and Gender-Based Violence Division of Kenya's Office of the Director of Public Prosecutions, and "Criminal Court E" for sexual offenses in Liberia's capital.

Specialized one-stop centers that provide comprehensive medical care and psychosocial support to survivors of sexual violence often fill a gap in available post-rape care services and are known within their communities for providing specialized services. During periods of conflict and emergency, these facilities may receive a high volume of cases from surrounding areas. For this reason, they may serve as a repository of critical information and data that can be used later as evidence in cases of international crimes of sexual violence.

Similarly, two out of the four case study countries have developed specialized institutions that focus on international crimes. In Kenya and Uganda, the Directorates of Public Prosecution have established specialized prosecution teams focused on international crimes. In Uganda, the International Crimes Division of the High Court is also technically operational. As with specialized police units, this concentration of expertise in international criminal law within a specific team of lawyers or judges is intended to ensure that *someone* can be tasked with these cases should they arise.

This parallel specialization may risk creating two separate institutional paths: one for the investigation, prosecution, and even adjudication of sexual violence crimes under domestic penal provisions, and one for the investigation, prosecution, and adjudication of international crimes (in most cases, either war crimes or crimes against humanity) under domesticated international criminal laws and treaty obligations. In an increasingly bifurcated system that generates separate investigating and prosecuting entities with separate training and mandates, *international* crimes of sexual violence may fall between the tracks unless there is meaningful and sustained cross-training and mutual support among specialized units. In those locales that have only specialists in sexual and gender-based violence, it is unclear whether necessary training or capacity to handle international crimes of sexual violence exists.<sup>87</sup>

#### 5. Donors focused on sexual violence committed during conflict periods can help sow the seeds for longterm domestic response.

Philanthropic foundations, UN agencies, and even foreign governments often play critical roles in funding responses to sexual violence in times of both peace and armed conflict. These private donors can be tremendously helpful in terms of supplementing scarce state funds, supplies, and staffing. However, research suggests a few considerations to optimize donors' impact on accountability for conflict-period sexual violence, including acts amounting to war crimes, crimes against humanity, and acts of genocide.

First, donors have significant influence on the nature of programming around sexual violence. Donor funds have spurred the proliferation of specific kinds of response and support programs in many contexts, such as livelihood training for survivors and specialized police and prosecution units. These may ultimately prove to be promising strategies, but many programs have yet to undergo substantial evaluation.

Furthermore, some informants expressed concern that many donors' perceived preference to address sexual violence in conflict settings in recent years may negatively affect their investment in programs that address day-to-day sexual and gender-based violence. Informants repeatedly noted a persistent lack of basic

supplies, space, and equipment in government facilities and the immense need to train police, healthcare providers, and judges to effectively handle sexual violence cases generally. Many stressed that conflict only exacerbates existing accountability and support challenges. Ideally, the same basic systems that respond to sexual violence in peacetime should be engaged in response efforts during conflict or emergency. Additional measures, such as the development of emergency plans, allocation of additional supplies, and specialized training for emergency settings, are critical to improving basic responses to sexual violence in future conflicts or emergencies.

Second, funders can dramatically enhance the coordination of survivor support and protection efforts, which can also improve the collection of evidence for later prosecution. Some donors, such as the Norwegian Refugee Council in Liberia, have worked to connect healthcare provision to law enforcement and legal aid via clear, localized referral pathways so that survivors can more easily navigate through an array of services. Others fund cross-sectoral trainings so that nurses, doctors, police officers, prosecutors, and judges can work through an agreed evidence-collection, transfer, and storage process.

By taking a holistic view of the various steps of the accountability process, funders can help to bridge gaps between actors and thereby prevent the loss of survivors and evidence. Helping survivors to navigate from medical care to legal support or to the police, if this is possible during conflict periods, can produce contemporaneous evidence for case files, even if charges are not brought until years later. This holistic view is also important for international crimes, which are often investigated years—or even decades—after they were committed. If witnesses have been displaced, their memories have faded, or clinics have burned down or been ransacked, having multiple sources of documentation of crimes is helpful.

Third, donors play a critical role in seeding future sustainability. In the transition to a post-conflict phase, members of government and civil society organizations in the case study countries commented on the struggle to maintain implementation of sexual violence prevention and response activities in light of a possible decline in donor support. Informants emphasized that NGOs and local civil society organizations should partner with existing community structures, including local government authorities, community leadership, and traditional justice systems, on all sexual violence responses during conflict periods to ensure that key programs are integrated into longstanding local systems. In this way, donors can increase the likelihood that knowledge, skills, and effective responses will remain in communities long after funding has ceased.

# RECOMMENDATIONS

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Though not all survivors of sexual violence wish to engage the formal justice system, it is imperative that the legal process work well for those who do seek accountability in this way. At a minimum, this requires sensitive, survivor-centered approaches that offer support and protection throughout the reporting, investigation, and prosecution stages. Individuals working within health, law enforcement, and judicial systems should work to ensure that procedures and services promote the safety of survivors, protect confidentiality, and seek survivors' input regarding their level of participation at every stage of the process. Domestic actors from across health, legal, judicial, and community sectors bear the greatest responsibility and potential for responding to survivors' claims of sexual violence both during and after periods of armed conflict.

Based on this study's findings of multifaceted barriers to reporting, investigating, and prosecuting sexual violence, the HRC makes the following recommendations to improve accountability for sexual violence that occurs during and after periods of armed conflict, including as an intentional crime.

## *To Legislators:*

1. Domesticate the Rome Statute, if this has not already been done. Reconcile domestic gender-violence laws with Rome Statute definitions and provisions wherever possible. Clearly designate a judicial venue that has jurisdiction over international crimes, and facilitate that chamber's operation.
2. Support development of a law for the provision of legal aid to the indigent or otherwise marginalized. Allocate sufficient resources within national budgets for new and existing legal aid programs to increase access to justice, particularly in rural areas where services are often limited. Professional pro-bono hourly requirements or collaboration with law-student groups may increase options.
3. Pass legislation that mandates meaningful witness protection, including for those testifying in cases of sexual violence or international crimes. Kenya's Witness Protection Agency is an example of one attempt to create a national program.

## *To Ministries of Health:*

1. Allocate sufficient resources within ministry budgets to address sexual violence and thus reduce donor dependence and ensure sustainability. Regular funding streams should support adequate training and the provision of post-rape care medications and proper facilities and supplies for collecting and storing evidence. Focus on equipping lower-level health facilities to expand access to comprehensive post-rape care, particularly in rural areas. Consider including sexual violence issues

in the ministry's national data collection efforts, and incorporate sexual violence into health sector strategic plans.

2. Train relevant healthcare providers in the provision of comprehensive clinical care for sexual violence. Training should be based on national guidance where available, and should cover the following topics: conducting forensic examination in sensitive ways, completing relevant health or police forms, collecting and storing evidence, preparing to testify in court, and procedures for working with law enforcement to facilitate transfers of documents and physical evidence. Training on management of sexual violence should be integrated into regular curricula at medical schools and throughout other health education mechanisms. Assess knowledge gaps and offer regular refresher training that addresses recent policy changes. As a strategy to increase access to care beyond major hospitals, consider strengthening efforts to train providers at local health centers.
3. Coordinate with local organizations and groups that provide assistance to sexual violence survivors to develop appropriate training materials and adequate response and referral mechanisms to and from healthcare facilities.
4. Develop special clinical management and psychosocial support protocols that respond to the needs of child and male survivors of sexual violence. Integrate these protocols into national guidance, training materials, and program design. The 2009 "National Guidelines on Management of Sexual Violence in Kenya" is a helpful example.<sup>88</sup>
5. Address barriers to healthcare providers' participation as expert witnesses in trials, including providing reimbursement for transportation costs, necessary time off, and support mechanisms to help providers prepare to testify and understand court processes.
6. Facilitate dialogue among health policymakers, healthcare providers, prosecutors, and law enforcement to identify mechanisms and measures that healthcare providers can take to collect, document, and store evidence in emergency contexts. Develop context-specific and survivor-sensitive protocols to ensure the collection of prioritized evidence and secure storage. Develop informed consent procedures to ensure that survivors' rights are respected. The provision of post-rape care in emergency settings should be integrated into the ministry's national guidelines, training, and planning.

*To Ministries of Justice:*

1. Develop and implement witness protection and support measures, including measures such as *in camera* testimony, name redaction, and victim accompaniment. Allocate sufficient resources in the ministry budget to support implementation of these procedures. If current law does not specify measures to support victims and witnesses in court, explore the use of judicial guidance to improve court practice. Special consideration should be made for particularly vulnerable victims and witnesses testifying in sexual violence cases, such as children.
2. Support the evaluation of specialized courts or chambers to adjudicate crimes of sexual violence. Note that the number of convictions may not be the most appropriate measure of success in early stages due to significant challenges identified downstream at the investigation stage. More helpful initial metrics may include, for example, the rate of case progression; the quality of legal analysis, witness experience, and evidence received and considered; and the availability of witness support measures.
3. Identify the appropriate domestic venue for the adjudication of international crimes and provide relevant judges with ongoing training on international criminal law. Give specific attention to the



investigation and prosecution of sexual violence as a war crime, a crime against humanity, or an act of genocide.

*To Ministries Responsible for Gender Affairs:*

1. Organize and support cross-sectoral training for healthcare providers, law enforcement, prosecutors, and judges on the sensitive collection of evidence required to prove crimes of sexual violence generally, as well sexual violence committed as a war crime, crime against humanity, or act of genocide. Training curricula and materials for the latter should address and clarify any disparities between current gender-violence laws and Rome Statute provisions on sexual violence.
2. Allocate specific budget lines to support development of safe shelter programs to meet the protection needs of survivors, particularly those who agree to report and follow through with the legal process.<sup>89</sup>
3. Improve referral and coordination by mapping available services within communities to develop referral pathways or standard operating procedures (SOPs) for survivors of sexual violence. Referral networks should include medical care, psychosocial support, police, legal aid, safe shelter, as well as other required support services. Ensure this information is disseminated and accessible to key actors and the public. Convene regular multi-sectoral meetings to strengthen partnerships and to improve understanding of each actor's roles and responsibilities.

*To Heads of Law Enforcement:*

1. Incorporate training and information on sexual violence and international crimes into core curricula at police academies to improve police capacity and sensitization for all officer ranks. Monitor for competence and provide periodic refresher courses. Specific skill sets emphasized in training should include interviewing, statement taking, collection and management of physical evidence (including chain-of-custody issues), and knowledge of sexual violence laws, the Rome Statute, and any relevant domesticating legislation. Trainings should also develop officers' familiarity with the relevant referral pathway for survivors of sexual violence who seek support services.
2. Develop clear guidance tools on sensitive investigation of crimes of sexual violence, including international crimes of sexual violence. For example, produce a simplified, pocket version of sexual offense laws and investigation procedures for new officers. For international crimes, the ICC Prosecutor's Policy Paper on Sexual and Gender-based Crimes (2014) and the International Protocol for the Documentation and Investigation of Sexual Violence in Armed Conflict (2014) may be helpful resources from which to draw context-specific guidance.<sup>90</sup>
3. Allocate funds for basic materials and equipment required to investigate sexual violence and other crimes (e.g., paper, pens, photocopiers, vehicles with fuel, phone credit, computers, and Internet access).
4. Facilitate processes through which officers in specialized gender-based violence police units can support non-specialized officers in responding to cases of sexual and gender-based violence in areas beyond the reach of the specialized units. As an example, explore the "situation room" advice and support that UN Police provides to specialized sexual violence officers throughout rural Liberia.
5. To improve response to international crimes of sexual violence, cross-train police units that specialize in gender-based violence and international crimes on collecting of evidence. Establish mechanisms that enable joint investigation and consultation between these specialized units in order to

recognize and respond to international crimes of sexual violence committed in future emergency periods. Similarly, establish guidelines by which regular, non-specialized police officers can refer possible international crimes observed in the field to relevant special units.

6. Develop guidance for the investigation of sexual violence committed against members of specific populations, including children (both boys and girls), men, and refugees and other forcibly displaced persons. Guidance should include sensitive interviewing techniques and should be incorporated into police training institution curricula to improve competence.
7. Support evaluation of the role, capacity, and impact of specialized police units focused on sexual and gender-based violence, which may lead to identification of key areas to support and improve. Review the ways in which specialized police units relate to the rest of the national police force to identify points of collaboration and mutual support.

*To Chief Prosecutors and Directors of Public Prosecution:*

1. Improve the quality of evidence submitted in sexual violence case files by working closely with investigators from the outset to plan sexual violence investigations according to evidentiary requirements. Provide immediate feedback on initial dossiers. Provide ongoing feedback on the quality of witness statements and reporting forms, even after a case is closed, to help police officers and healthcare providers improve their future statement-taking and case documentation.
2. Consider collaboration with civil society attorneys who have expertise in sexual violence cases. Also consider their participation as co-counsel alongside state prosecutors or in other supportive roles in sexual violence trials. Their involvement may expand the reach of relevant expertise into rural areas in particular. Measures taken by the Kenyan Office of the Director of Public Prosecutions (ODPP) to appoint special prosecutors from civil society to help prosecute sexual violence cases may be instructive.
3. Facilitate cross-training and resource sharing to build joint competence on prosecution of sexual violence as a war crime, a crime against humanity, or an act of genocide wherever separate, specialized units exist for the prosecution of sexual and gender-based violence crimes and international crimes. Establish mechanisms that enable joint prosecution of international crimes of sexual violence that may occur in the future.
4. Where they exist, enable specialized prosecution units to interface regularly with non-specialized prosecutors for training and exchange on both sexual violence and international crimes overall. They should regularly consult on sexual violence cases that arise beyond the reach of specialized units, particularly in rural areas.
5. Prepare and support expert witnesses, to the extent permitted, to reduce their fear and confusion about testifying in court. Extend support to all healthcare workers who have conducted medical examinations of survivors or filled out medical certifications submitted to courts.

*To Non-Governmental Organizations and Civil Society Organizations Addressing Sexual Violence:*

1. Seek out domestic and international partnerships to build coalitions and maximize resources and political strength when seeking innovative litigation and prosecution of conflict-period sexual violence. Developing partnerships that can open pipelines to foreign courts that exercise universal jurisdiction is particularly useful when domestic courts or the ICC cannot or will not act.

2. Implement programs, campaigns, and activities aimed at changing social norms to reduce stigma and create an enabling, supportive environment for survivors to report sexual violence. Educate communities about laws on sexual violence, survivors' rights, and available services through diverse media such as community radio programming, drama, dance, billboards, and informational materials. Invest in evidence-based prevention strategies that are long-term and adaptable to the local context and engage many sectors of society.
3. Develop strategies to overcome structural barriers to reporting sexual violence. Consider, for example, creating toll-free hotlines and training community leaders, elders, healthcare workers, paralegals, and other volunteers to act as first responders, who can ease reporting by linking or accompanying survivors to services and educating community members about the law and available services. In conflict settings, given additional security and mobility challenges, sexual violence responses should focus on facilitating access to care. To do so, consider operating telephone hotlines in displacement settings, providing safe transport to services, offering temporary accommodation near hospitals and courts, and locating temporary services as close to communities as possible.
4. Work closely with community leaders, elders, and other community justice actors to develop gender-sensitive community justice processes; to establish referral pathways to health, police, and legal services; and to clarify the relationship between the formal and informal justice systems. Community justice mechanisms can play a critical role in accountability for sexual violence, particularly in rural areas, where access to police and court systems may be limited.

### **Recommended Cross-Sectoral Actions**

#### *To Civil Society and Government Entities Focused on Sexual and Gender-Based Violence:*

1. Develop local cross-sectoral training, standard operating procedures, and referral networks for survivor support, collection of evidence, and legal process requirements for healthcare workers, forensic analysts, police, prosecutors, and judges. Training and guidance should aim to establish local networks and to clarify roles, responsibilities, and processes in the collection, storage, and analysis of forensic evidence across sectors. Seek out opportunities for cross-sectoral dialogue: the Human Rights Center's 2011 Sexual Offences Act Implementation Workshop in Kenya may be a useful example.
2. Harmonize relevant medical and police forms documenting cases of sexual violence and clarify procedures for completion of these forms. Train relevant healthcare providers and police officers on proper completion of these forms. Cross-sectoral training efforts by Physicians for Human Rights may be instructive. Disseminate information and raise awareness among key actors about who can conduct forensic examinations, complete examination forms, and testify in court.

#### *To Humanitarian Actors and National and Local Governments:*

1. Both humanitarian actors and national and local systems should seek improved collaboration and coordination on work plans, budgeting, and activities related to sexual violence response to ensure adequate coverage, reduce duplication of services, and build long-term capacity.
2. Humanitarian actors should partner with local government authorities and community leadership structures to ensure sustainability of sexual violence response mechanisms.

*To Donors and United Nations Agencies:*

1. Support cross-sectoral convenings and trainings that improve maintenance of the chain of custody of evidence in sexual violence cases, inviting representation from the health, law enforcement, forensic, prosecution, and judicial sectors.
2. Support training on domestic and international sexual violence crimes for both specialized and non-specialized investigators, prosecutors, and judges, as any of these groups may be called upon to respond to these crimes in times of emergency.
3. Fund further research on the following topics:

The World Health Organization and the Sexual Violence Research Initiative have issued a Research Agenda for Sexual Violence in Conflict, generally.<sup>91</sup> These are our specific recommendations for urgent research regarding aspects of legal accountability for these crimes.

- *The use of evidence in sexual violence cases brought both under domestic penal or gender-violence laws or under international crimes laws.*

What evidence is available, captured, and used in court? What impact does it have on the case outcome? A close analysis of evidence capture and treatment at every stage of the accountability process in a few sample jurisdictions could provide key insights regarding the strengths and weaknesses of the overall management of evidence, as well as critical points of attrition within individual cases.

- *The rigorous evaluation of specialized units focused on sexual and gender-based violence and international crimes.*

More study is needed to understand the potential and limitations of specialized sections of healthcare facilities, police forces, prosecution departments, and court systems. It is also important to understand the relationship of specialized units within their larger institutions. Where parallel police, prosecution, or judicial entities address sexual and gender-based violence on one hand and international crimes on the other, research should be conducted regarding their relationship and potential for coordination.

- *The need for, and availability of, witness support and protection measures in cases of sexual violence.*

Better understanding of survivors' and witnesses' support and protection needs is vital to enhance their safety and their willingness to engage the formal legal system. Survivor needs in cases of both day-to-day and international crimes of sexual violence should be taken into account. Assessment of currently available support and protection measures will indicate key areas for improvement.

- *The identification of service needs of specific groups of sexual violence survivors, including children and men.*

Evaluate existing programs serving these groups and gather useful practical guidance and tools aimed at their particular support and protection needs.

- *The evaluation of interventions to prevent sexual violence in humanitarian settings.*

Further research and evaluation are needed on policy, training, and programmatic efforts aimed at preventing sexual violence and improving protection mechanisms during periods of conflict and emergency.

- 1 Alexandra Stigmayer, “The Rapes in Bosnia-Herzegovina,” in *Mass Rape: The War Against Women in Bosnia-Herzegovina*, ed. Alexandra Stigmayer, trans. Marion Faber (Lincoln: University of Nebraska Press, 1994), 82–169. For a fascinating discussion of the psychological and political aspects of survivors’ experiences, see Inger Skjelsbæk, *The Political Psychology of War Rape: Studies from Bosnia and Herzegovina*, War, Politics and Experience (New York: Routledge, 2012).
- 2 Catrien Bijleveld, Aafke Morssinkhof, and Alette Smeulers, “Counting the Countless: Rape Victimization During the Rwanda Genocide,” *International Criminal Justice Review* 19, no. 2 (June 2009): 208–224, <http://icj.sagepub.com/content/19/2/208.full.pdf+html>.
- 3 The Women and Transitional Justice in Cambodia” Project led by the Victims Support Section of the Extraordinary Chambers in the Courts of Cambodia (ECCC), the Cambodian Defenders Project (CDP), and Transcultural Psychosocial Organization (TPO) provides a rich archive of testimony and research about sexual and gender-based violence committed under the Khmer Rouge regime, <http://gbvkr.org/>. Similarly, Teresa De Langis captured survivor testimonies in the Cambodian Women’s Oral History Project: Life Stories of Survival under the Khmer Rouge Regime, <http://cambodianwomensoralhistory.com/>. See, also, Emily Wight, “Gender-based violence: Khmer Rouge survivors given a platform,” *The Phnom Penh Post*, 24 January 2014, <http://www.phnompenhpost.com/7days/gender-based-violence-khmer-rouge-survivors-given-platform>. For an interesting discussion of early lessons learned at the Extraordinary Chambers in the Courts of Cambodia in handling of sexual violence charges, see Rachel Killean, “An Incomplete Narrative: Prosecuting Sexual Violence Crimes at the Extraordinary Chambers in the Courts of Cambodia,” *J. Int. Criminal Justice* (2015) 13(2): 331–352. For an analysis of the characterization of forced marriage in Cambodia and elsewhere as a crime in international law, see Neha Jain, “Forced Marriage as a Crime against Humanity: Problems of Definition and Prosecution,” *J. Int. Criminal Justice* (2008) 6(5): 1013–1032.
- 4 See, for example, Kim Thuy Seelinger and Julie Freccero, *Safe Haven: Sheltering Displaced Persons from Sexual and Gender-Based Violence; Comparative Report* (Berkeley: Human Rights Center, University of California, Berkeley, School of Law, May 2013), [https://www.law.berkeley.edu/files/HRC/SS\\_Comparative\\_web.pdf](https://www.law.berkeley.edu/files/HRC/SS_Comparative_web.pdf).
- 5 See Mazeda Hossain et al., “Men’s and Women’s Experiences of Violence and Traumatic Events in Rural Côte d’Ivoire Before, During and After a Period of Armed Conflict,” *BMJ Open* 4, no. 2 (February 2014), <http://bmjopen.bmj.com/cgi/lookup?view=long&pmid=24568959>; Tia Palermo, Jennifer Bleck, and Amber Peterman, “Tip of the Iceberg: Reporting and Gender-Based Violence in Developing Countries,” *American Journal of Epidemiology* 179, no. 5 (March 2014): 602–12, <http://aje.oxfordjournals.org/content/179/5/602>; and Andrea L. Wirtz et al., “Development of a Screening Tool to Identify Female Survivors of Gender-Based Violence in a Humanitarian Setting: Qualitative Evidence from Research among Refugees in Ethiopia,” *Conflict and Health* 7 (June 2013), <http://www.conflictandhealth.com/content/7/1/13>.
- 6 The Rome Statute of the International Criminal Court (“Rome Statute”), adopted in Rome on 17 July 1998, went into effect on 1 July 2002. It established the International Criminal Court (ICC), a permanent tribunal based in the Hague, the Netherlands. The ICC has jurisdiction to adjudicate cases of genocide, crimes against humanity, war crimes. (Jurisdiction over crimes of aggression, the fourth core international crime over which the ICC has jurisdiction, has yet to be fully operationalized.) At time of press (July 2015), the Rome Statute had 123 state parties. Rome Statute of the International Criminal Court (ICC), 17 July 1998 (entered into force 1 July 2002), UN Doc. A/CONF.183/9. <http://legal.un.org/icc/index.html> [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-10&chapter=18&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&lang=en).
- 7 For the purposes of this study, we date the relevant conflict periods in our case studies as follows: Liberia: 1989–96 and 1999–2003; Sierra Leone: 1991–99; Uganda: conflict in Northern Uganda, 1986–2006 and until the end of the formal encampment



period in 2008; and Kenya: postelection violence, late December 2007–February 2008. We understand that Kenya’s 2007–08 postelection violence may not constitute an armed conflict in the strict sense under international humanitarian law. However, we include Kenya as a case study because of the relatively recent nature of the conflict there, the diversity it provides in the duration of its emergency period, and the potential to find helpful response strategies in such a highly developed country. Also, incidents of sexual violence reported to local and international investigators during Kenya’s 2007–08 postelection violence were sufficiently similar to acts of sexual violence committed in other case-study conflict contexts that they invoke similar questions of accountability and response.

- 8 The key informant approach has a number of limitations. It may introduce bias, as professional orientation can influence responses; these professionals’ knowledge and experience may not be drawn from a random group of clients; and key informants lack sufficient knowledge to offer highly detailed, personal information about the survivor experience. See Douglas Heckathorn, “Respondent-Driven Sampling: A New Approach to Hidden Populations,” *Social Problems* 44, no. 2 (May 1997): 175, <http://socpro.oxfordjournals.org/content/socpro/44/2/174.full.pdf>.
- 9 There is no universally-accepted definition for sexual violence. The World Health Organization has described sexual violence as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work . . . Sexual violence includes rape, defined as physically forced or otherwise coerced penetration—even if slight—of the vulva or anus, using a penis, other body parts or an object.” See Rachel Jewkes, Purna Sen and Claudia Garcia-Moreno, “Sexual Violence,” in *World Report on Violence and Health*, ed. Etienne G. Krug et al. (Geneva: World Health Organization, 2002), [http://whqlibdoc.who.int/publications/2002/9241545615\\_chap6\\_eng.pdf](http://whqlibdoc.who.int/publications/2002/9241545615_chap6_eng.pdf). Though instructive, the 1993 *UN General Assembly Declaration on the Elimination of Discrimination Against Women* simply contextualizes sexual violence as a form of general violence against women: “Violence against women shall be understood to encompass, but not be limited to, the following:
  - a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
  - b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
  - c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.”

See United Nations General Assembly, Declaration on the Elimination of Discrimination against Women, G.A. Res. 48/104, UN Doc. A/RES/48/104 (December 20, 1993), available at <http://www.un.org/documents/ga/res/48/a48r104.htm>.

The ICC Rome Statute of the International Criminal Court recognizes rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other grave forms of sexual violence as war crimes in international and non-international armed conflict as well as crimes against humanity. Rome Statute Articles 8(2)(b)(xxii), 8(2)(e)(vi) and 7(1)(g).

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- 15 Michael P. Anastario et al., “Time Series Analysis of Sexual Assault Case Characteristics and the 2007–2008 Period of Post-Election Violence in Kenya,” *PLoS ONE* 9, no. 8 (August 29, 2014): e106443, <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0106443>.
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- 74 It should be disclosed that after conclusion of the research in Liberia, Kim Thuy Seelinger, a coauthor of this report, was recruited to the board of directors of Civitas Maxima.
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# ACKNOWLEDGMENTS

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We thank everyone who so kindly agreed to speak with us, sharing their expertise on accountability for sexual violence and giving so generously of their precious time. We hope that this research and report help to provide a platform for improved dialogue and coordination on promising practices for the reporting, investigation, and prosecution of sexual violence. It is our hope that this will increase access to, and improve the response of, the formal legal system for those survivors who seek justice there.

This report was authored by Kim Thuy Seelinger and Julie Freccero of the HRC's Sexual Violence Program. It includes contributions from Amy Belsher, Michelle Ben-David, and Lisa-Marie Rudi.

This study was based on fieldwork conducted by the following:

- Julie Freccero, Lisa-Marie Rudi, and Kim Thuy Seelinger (Kenya)
- Michelle Ben-David\*, Nila Natarajan\*, Leah Nehme\*, Lisa-Marie Rudi, and Kim Thuy Seelinger (Liberia)
- Lynn Lawry (Sierra Leone)
- Amy Belsher\*, Anthony Bestafka-Cruz\*, Julie Freccero, Saira Hussain\*, and Kim Thuy Seelinger (Uganda)

Valuable desk research was contributed by Golda Calonge, Tuong-Vi Faber, Sonal Goyal, Jasmine Hennessy, Rebecca Kutlow, Meredith Loken, Gail Saliterman, and Amanuel Tesfayesus.

We are grateful to our colleagues Stephen Smith Cody, Alexa Koenig, Andrea Lampros, Eric Stover, and Cathy Zimmerman for feedback and editing support. We also thank Alexey Berlind and Kevin Reyes for administrative support.

Our thanks to Elefant Designs ([elefantdesigns.com](http://elefantdesigns.com)) for graphics, Nicole Hayward ([nicolehayward.com](http://nicolehayward.com)) for overall design and layout, and Laura Harger ([lauraharger.com](http://lauraharger.com)) for copy editing.

Thank you to the following local contacts who helped us access key actors and also shared their own expertise: Hon. Elizabeth Alividzia (Uganda), Counsellor Felicia Coleman (Liberia), Ms. Veronica Eragu (Uganda), Ms. Judy Gitau (Kenya), Commissioner Deweh Gray (Liberia), Ms. Mariam Kamunyu (Kenya), Ms. Lydia Muthiani (Kenya), Susan Okalany (Uganda), Dr. Sylvester Onzivua (Uganda), Ms. Amanda Rawls (Liberia), Counsellor George Sagbeh (Liberia), Dr. Madhumita Sarkar (Liberia), Mr. Charles Vandi (Sierra Leone), and Hon. Henriette Wolayo (Uganda).

Finally, the study was made possible thanks to the incredible generosity of Humanity United, the Open Society Foundations' International Women's Program, and the John D. and Catherine T. MacArthur Foundation.

\*Students of the International Human Rights Law Clinic, Berkeley School of Law

# APPENDICES

## Elements of Crimes of Sexual Violence under the Rome Statute

SEXUAL CRIMES THAT CAN BE EITHER CRIMES AGAINST HUMANITY OR WAR CRIMES UNDER THE ROME STATUTE

<i>Crime</i>	<i>Elements to Prove</i>	<i>Crime Against Humanity if...</i>	<i>War Crime if...</i>
Rape	<p>The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.</p> <p>The invasion was committed by force, or by threat of force or coercion, such as that caused by fear or violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.</p>	<p>The conduct was committed as part of a widespread or systematic attack directed against a civilian population.</p> <p>The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population. (Art. 7)</p>	<p>The conduct took place in the context of and was associated with an international (or non-international) armed conflict. The perpetrator was aware of the factual circumstances that established the existence of an armed conflict. (Art. 8)</p>
Sexual Slavery	<p>The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.</p> <p>The perpetrator caused such person or persons to engage in one or more acts of a sexual nature.</p>	" "	" "

<p>Enforced Prostitution</p>	<p>The perpetrator caused one or more persons to engage in one or more acts of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.</p> <p>The perpetrator or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature.</p>	<p>" "</p>	<p>" "</p>
<p>Forced pregnancy</p>	<p>The perpetrator confined one or more women forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.</p>	<p>" "</p>	<p>" "</p>
<p>Enforced Sterilization</p>	<p>The perpetrator deprived one or more persons of biological reproductive capacity.</p> <p>The conduct was neither justified by the medical or hospital treatment of the person or persons concerned nor carried out with their genuine consent.</p>	<p>" "</p>	<p>" "</p>
<p>Other forms of sexual violence</p>	<p>The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.</p> <p>Such conduct was of a gravity comparable to the other offences in article 7, paragraph 1(g) of the Rome Statute.</p> <p>The perpetrator was aware of the factual circumstances that established the gravity of the conduct.</p>	<p>" "</p>	<p>" "</p>

OTHER INTERNATIONAL CRIMES UNDER THE ROME STATUTE  
THAT MAY BE SEXUALIZED IN NATURE

<i>Crime</i>	<i>Crime Against Humanity if...</i>	<i>War Crime if...</i>	<i>Act of Genocide if...</i>
	<p>The conduct was committed as part of a widespread or systematic attack directed against a civilian population.</p> <p>The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population. (Art. 7)</p>	<p>The conduct took place in the context of and was associated with an (international or non-international) armed conflict.</p> <p>The perpetrator was aware of the factual circumstances that established the existence of an armed conflict. (Art. 8)</p>	<p>The targeted person/s belonged to a particular national, ethnical, racial or religious group. The perpetrator intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.</p> <p>The act committed was intended to affect that group.</p> <p>The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction. (Art. 6.)</p>
Enslavement	X	X	
Torture	X	X	
Persecution	X	X	
Inhumane acts	X		
Inhuman treatment		X	
Biological experiments		X	
Wilfully causing great suffering		X	
Mutilation		X	
Medical or scientific experiments		X	
Outrages upon personal dignity		X	
Biological experiments		X	
Wilfully causing great suffering		X	

Mutilation		X	
Medical or scientific experiments		X	
Outrages upon personal dignity		X	
Causing serious bodily or mental harm to a group			X
Deliberately inflicting on a group conditions of life calculated to bring about its physical destruction in whole or in part			X
Imposing measures intended to prevent births within the group			X

\*Taken from the Rome Statute of the International Criminal Court (ICC), 17 July 1998 (entered into force 1 July 2002), UN Doc. A/CONF.183/9. <http://legal.un.org/icc/index.html> [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-10&chapter=18&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&lang=en)



## List of Informants

Researchers interviewed informants from the following organizations and entities. Occasionally multiple interviews were conducted with a single group.

### Kenya

Al-Taqwa, Kisumu  
APHIA Plus (AIDS, Population, and Health Integrated Assistance), Kisumu  
CARE, Nairobi  
Center for Rights Education and Awareness (CREAW), Nairobi  
Civil Society Organizations Network, Kisumu  
Coalition On Violence Against Women (COVAW), Nairobi  
Commission of Inquiry on Post-Election Violence, Commissioner, skype call  
Commission of Inquiry on Post-Election Violence, Gender Advisor, Nairobi  
Filadelfia Women Crisis Centre, Nakuru  
Independent Consultant, Sexual and Gender-Based Violence, Kisumu  
Independent Medico-Legal Unit (IMLU), Nairobi  
Independent Policing Oversight Authority (IPOA), Nairobi  
International Center for Transitional Justice (ICTJ), Nairobi  
International Commission of Jurists (ICJ)—Kenya Section, Nairobi  
International Justice Mission (IJM), Nairobi  
International Rescue Committee (IRC), Nairobi  
Jaramogi Oginga Odinga Teaching and Referral Hospital, Gender-Based Violence Recovery Center (GBVRC), Kisumu  
Joint United Nations Programme on HIV / AIDS (UNAIDS), Nairobi  
Judiciary, Criminal Division, Milimani High Court, Nairobi  
Kenya Human Rights Commission, Nairobi  
Kenya National Commission on Human Rights (KNCHR), Kisumu Branch, Kisumu  
Kenya National Police Service, Children and Gender Unit, Guruguru Police Station, Nairobi  
Kenya National Police Service, Directorate of Community Policing, Child Protection and Gender Issues, KNPS Headquarters, Nairobi  
Kenyatta National Hospital, Gender-Based Violence Recovery Center (GBVRC), Nairobi  
Kisumu District Hospital (KDH), Kisumu  
Kituo Cha Sheria, Nairobi  
Laini Saba Project Center & Home Care, Nairobi  
LVCT Health, Nairobi  
Médecins Sans Frontières (MSF), SGBV Recovery Center (Mathare), Nairobi  
Ministry of Health, Reproductive Health Division, Nairobi  
Nairobi Women's Hospital, Nairobi  
Nyanza IDP Network, Kisumu  
Office of the Director of Public Prosecutions (ODPP), Nairobi  
Office of the Government Chemist, Kisumu  
Office of the Government Chemist, Nairobi  
Pal Omega, Kisumu  
Peace and Development Network Trust (PeaceNet-Kenya), Nairobi  
Physicians for Human Rights, Nairobi  
Population Council, Nairobi  
Provincial General Hospital Nakuru, Gender Violence Recovery Center, Nakuru  
The CRADLE—The Children's Foundation, Nairobi  
The Federation of Women Lawyers - Kenya (FIDA Kenya), Nairobi  
United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), Nairobi  
United Nations Population Fund (UNFPA), Nairobi  
Women Concern, Kisumu  
Women's Empowerment Link (WEL), Nairobi

## Liberia

Abused Women and Girls Project (AWAG), Monrovia  
ActionAid Liberia, Monrovia  
American Refugee Committee (ARC), Monrovia  
Association of Female Lawyers of Liberia (AFELL), Monrovia  
Carter Center, Access to Justice in Liberia, Monrovia  
Carter Center, Mental Health Program, Monrovia  
Carter Center, Youth Leaders Training, Gbarnga  
ChildFund International, Monrovia  
Dunbar Hospital, Gbarnga  
Duport Road Medical Clinic, Paynesville  
E.S. Grant Mental Health Hospital, Paynesville  
EQUIP Liberia, Monrovia and Ganta  
Ganta Police Station, Ganta  
Governance Commission (GC), Monrovia  
Independent National Commission on Human Rights (INCHR), Monrovia  
Independent Researcher, Monrovia  
Independent Consultant, gender and peacebuilding expert, phone call  
Independent Consultant, social work and criminal justice expert, Monrovia  
Independent Consultant, transitional justice and governance expert, Monrovia  
International Rescue Committee (IRC), Monrovia  
James N. Davis, Jr. (JDJ) Memorial Hospital, One Stop Centre, Paynesville  
James N. Davis, Jr. (JDJ) Memorial Hospital, Forensic Lab, Paynesville  
Judiciary, Criminal Court E, Monrovia  
Judiciary, Circuit Court, Gbarnga  
Judiciary, Ganta Magisterial Court, Ganta  
Judiciary, County Attorney, Monrovia  
Law Reform Commission, Monrovia  
Liberia National Police (LNP), Forensics and Crimes Services, Monrovia  
Liberia National Police (LNP), Women and Children Protection Section (WACPS), Monrovia  
Liberia National Police (LNP), Women and Children Protection Section (WACPS), Owensgrove  
Liberia National Police (LNP), Women and Children Protection Section (WACPS), Gbarnga  
Liberia National Police (LNP), Women and Children Protection Section (WACPS), Ganta  
Liberia Women Media Action Committee (LIWOMAC), Monrovia  
Margibi High Court, Kakata  
Médecins Sans Frontières (MSF), Monrovia  
Ministry of Gender and Development, Gender-Based Violence Unit, Liberia  
Ministry of Gender and Development, Gbarnga  
Ministry of Health and Social Welfare, Monrovia  
Ministry of Justice, Bureau of Corrections and Rehabilitation, Monrovia  
Ministry of Justice, Sexual and Gender-Based Violence Unit (SGBV CU), Ganta  
Ministry of Justice, Sexual and Gender-Based Violence Unit (SGBV CU), Gbarnga  
Ministry of Justice, Sexual and Gender Based Violence Crimes Unit (SGBV CU), Monrovia  
Medica Mondiale, Monrovia  
National Traditional Council of Liberia, Monrovia  
Norwegian Refugee Council (NRC), Monrovia and Gbarnga  
Phebe Hospital, Bong County  
Public Defender Office, Monrovia  
Redemption Hospital, Monrovia  
Saclepea Comprehensive Health Center, Saclepea  
Save the Children, Monrovia  
Servants of All Prayer (SOAP), Monrovia  
Star of the Sea Health Center, Monrovia

Touching Humanity in Need of Kindness (THINK), Monrovia  
United Nations Children's Fund (UNICEF), Monrovia  
United Nations Development Programme (UNDP), Joint Programme on Prevention and  
Response to Sexual and Gender-Based Violence, Monrovia  
United Nations Mission in Liberia (UNMIL), Gender Unit, Monrovia  
United Nations Police (UNPOL), Monrovia  
Voice of the Voiceless, Monrovia  
Women in Peacebuilding Network (WIPNET), Monrovia  
Women in Peacebuilding Network (WIPNET), Totota  
Women's NGO Secretariat of Liberia (WONGOSOL), Monrovia

## Sierra Leone

Access to Justice Law Centre (AJLC), Port Loko  
Amnesty International, Freetown  
Building Resources Across Communities (BRAC), Port Loko  
Centre for Accountability and Rule of Law (CARL), Freetown  
Centre for Research Documentation, Policy Studies, and Development of Law (LAWCEN), Freetown  
Community Association for Psychological Services (CAPS), Freetown  
Community Oversight Board, Port Loko  
Don Bosco Fambul Girls Shelter, Freetown  
Fambul Tok International—Sierra Leone, Freetown  
Fambul Tok International—Sierra Leone, Peace Mothers Group, Freetown  
Independent Gender-Based Violence Consultant, Freetown  
International Rescue Committee, Freetown  
Judiciary, Supreme Court of Sierra Leone, Freetown  
Marampa Chiefdom Lunsar, Port Loko District, Northern Province, Port Loko  
National Committee on Gender-Based Violence, (phone)  
Port Loko Hospital, Port Loko  
Rainbo Initiative, Freetown  
Sabi Yu Rights Advocacy Group (SYRAG), Freetown  
Sierra Leone Police, Aberdeen Station, Family Support Unit (FSU), Freetown  
Sierra Leone Police, Hill Station, Freetown  
Trócaire – Sierra Leone, Freetown  
UK Department for International Development (DFID), (phone)

## Uganda

Acholi Religious Leaders Peace Initiative (ARLPI), Gulu  
Action for Development (ACFODE), Kampala  
American Refugee Committee (ARC), Regional Program, Southwest Uganda  
American Refugee Committee (ARC), Gulu  
CARE, Gulu  
Caritas Uganda, Gulu  
Center for Domestic Violence Prevention (CEDOVIP), Kampala  
ChildFund International, Kampala  
Child Protection Committee, Gulu District, Odek Sub-County, Acet Village  
Danish Refugee Council (DRC), Kampala  
Directorate of Public Prosecutions, Gulu  
Directorate of Public Prosecutions, Kampala  
Directorate of Public Prosecutions, International Crimes Division (ICD), Kampala  
Gulu District Gender Office, Department of Community Services, Gulu  
Gulu District Health Office, Maternal and Child Health, Gulu  
Gulu Economic Women's Development and Globalization (GWED-G), Gulu  
Gulu Independent Hospital, Gulu

Gulu Regional Referral Hospital, Gulu  
Judiciary, High Court, Kampala  
Human Rights Network-Uganda (HURINET-U), Kampala  
International Center for Transitional Justice (ICTJ), Kampala  
International Rescue Committee (IRC), Kampala  
Isis-WICCE, Kampala  
Justice and Reconciliation Project (JRP), Gulu  
Justice, Law, and Order Sector (JLOS), Kampala  
Kawaala Health Center, Kampala  
Ker Kwaro Acholi, Gulu  
Law and Advocacy for Women in Uganda (LAW-U), Kampala  
Law Reform Commission, Kampala  
Legal Aid Project of the Uganda Law Society (LAP), Gulu  
Legal Aid Project of the Uganda Law Society (LAP), Kampala  
Local Council (LC)1, Gulu District, Odek Sub-County  
Makerere University, Department of Family Medicine, Faculty of Health Sciences  
Ministry of Gender, Labor, and Social Development, Kampala  
Ministry of Health, Infection Control, Post-Exposure Prophylaxis (PEP) Division  
Ministry of Health, Reproductive Health Division, Kampala  
Ministry Local Government, Kampala  
Mulago National Referral Hospital, Mulago Assessment Center, Kampala  
Mulago National Referral Hospital, Ward 5A, Emergency Obstetrics and Gynecology, Kampala  
Raising Voices, Kampala  
Refugee Law Project (RLP), Kampala  
Straight Talk Foundation, Gulu  
The African Women's Development and Communication Network (FEMNET), Kampala  
The Uganda Association of Women Lawyers (FIDA Uganda)  
Transcultural Psychosocial Organization (TPO), Kampala  
Uganda Police Force, Child and Family Protection Unit (CFPU), Gulu  
Uganda Police Force, Child and Family Protection Unit (CFPU), Kampala  
Uganda Police Force, Directorate on Criminal Investigations and Crimes Intelligence, (CICI), Gulu  
Uganda Police Force, Directorate on Criminal Investigations and Crimes Intelligence, (CICI), Kampala  
United Nations Population Fund (UNFPA), Gulu  
United Nations Population Fund (UNFPA), Kampala  
Uganda Women's Network – UWONET, Kampala  
Uganda Women's Parliamentary Association (UWOPA), Kampala  
Vivo International, Gulu  
War Child Canada, Gulu  
War Child Canada, Kampala  
World Vision, Gulu

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