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**CONFLICT-RELATED SEXUAL
VIOLENCE IN ASIA-PACIFIC:
PUTTING VICTIMS/
SURVIVORS FIRST**

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**CONFLICT-RELATED SEXUAL VIOLENCE
IN ASIA-PACIFIC: PUTTING VICTIMS/SURVIVORS FIRST**

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by Aisling Swaine

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INTRODUCTION

In recent decades, Asia-Pacific has experienced various types of conflicts that have impacted the lives of millions of people across the region. Armed conflicts and internal crises have caused widespread damage and presented an ongoing challenge for the maintenance of peace in the region. Sexual violence has been a tragic characteristic of some of these conflicts, causing continuing devastation for victim/survivors.¹

The Government of the United Kingdom Foreign & Commonwealth Office and UN Women have both maintained an ongoing commitment to combatting sexual violence in conflict and addressing the needs of survivors.

Through its flagship Preventing Sexual Violence in Conflict Initiative (PSVI), the Government of the United Kingdom aims to address the culture of impunity, ensure more perpetrators are brought to justice and ensure better support for survivors. To further these objectives, the Foreign & Commonwealth Office campaigns to raise awareness, rallies global action, and promotes international coherence and increases the political will and capacity of states.²

UN Women works to empower women and girls and protect their human rights by supporting women's recovery after conflict, promoting access to justice, building the rule of law and strengthening accountability for conflict-related sexual and gender-based violence. UN Women is committed to advancing the Women, Peace and Security (WPS) agenda through promoting the implementation of all related UN Security Council Resolutions, including those that establish the framework for addressing sexual violence in conflict.³

To advance these joint objectives, The Government of the United Kingdom Foreign & Commonwealth Office and UN Women Regional Office for Asia and the Pacific have joined together to work towards better addressing the needs of conflict-related sexual violence (CRSV) victims/survivors and their children, including through National Action Plans on Women, Peace and Security (NAPs-WPS). Focusing on Nepal, Myanmar, Indonesia, the Philippines, Sri Lanka and Timor-Leste, the project considers the needs of victims/survivors to receive healthcare and psychosocial support, economic opportunities and security of housing, access to justice, and measures to combat stigma. It evaluates some of the obstacles to comprehensively addressing these needs in conflict and post-conflict settings, whether through NAPs-WPS or other mechanisms, and provides case studies to consider the local realities of victims/survivors and their children.

1 The term 'victim/survivor' is used throughout this publication to reflect the preferences of those consulted in its development. It reflects that those who have experienced sexual violence have different preferences for how their identity is reflected and referring to only 'victim' or 'survivor' may exclude those who do not identify within that category.

2 Government of the UK, Foreign & Commonwealth Office: <https://www.gov.uk/government/policies/sexual-violence-in-conflict>

3 The women, peace and security related resolutions include those related to sexual violence in conflict, as well as those broader and mostly addressing women's participation in peace making, peace keeping and peace building. Sexual violence in conflict resolutions include: UN Security Council Resolution 1820 (2008); UN Security Council Resolution 1888 (2009); UN Security Council Resolution 1960 (2010); UN Security Council Resolution 2106 (2013). Broader WPS resolutions include: UN Security Council Resolution 1325 (2000), UN Security Council Resolution 1889 (2009), UN Security Council Resolution 2122 (2013) and UN Security Council Resolution 2242 (2015).

The publication is divided into three parts. Part 1 is an academic analysis that maps the responsiveness of NAPs-WPS in Indonesia, Nepal, the Philippines and Timor-Leste to victims/survivors and their children, and identifies opportunities for interventions to be strengthened. Part 2 provides an overview of key challenges to addressing the needs of victims/survivors and considers a practical approach for policymakers and advocates going forward. Part 3 presents case studies from Nepal as a country that has a NAP-WPS, and Sri Lanka as a country that has not yet adopted one, to consider context-specific approaches to meeting the needs of victims/survivors and their children. Two annexes to the publication provide an overview of the discussions and recommendations of a Regional Expert Group Meeting held in Bangkok in January 2017, and a National Expert Group Meeting held in Kathmandu in February 2017 that have informed the findings in this report. These papers are intended for the use of all actors in responding to CRSV and highlight the need for policies and programmes to adopt a more victim-centered approach that better reflects the voices of victims/survivors and delivers meaningful and impactful improvements to their lives.



1

Aisling
Swaine

Furthering comprehensive approaches to victims/survivors of conflict-related sexual violence: An analysis of National Action Plans on Women, Peace and Security in Indonesia, Nepal, Philippines, and Timor-Leste

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Thank you to all of the participants at the Expert Group Meeting on “Addressing the needs of sexual violence survivors and children born of rape in NAPs-WPS,” in Thailand in January 2017. Your experiences and substantive inputs have informed the content as much as possible and thank you for all of the amazing work that you do for women in the region.

ACRONYMS AND ABBREVIATIONS

CBW	Children Born of War
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CRSV	Conflict-related Sexual Violence
GBV	Gender-based Violence
GR 19	General Recommendation No.19 (of CEDAW)
GR 30	General Recommendation No. 30 (of CEDAW)
IPV	Intimate partner violence
NAPs	National Action Plans
WPS	Women, Peace and Security
SEA	Sexual exploitation and abuse

EXECUTIVE SUMMARY

INTRODUCTION

There is growing acknowledgment of the need to address the social, security, legal, health and economic impacts that multiply and sustain the repercussions of conflict-related sexual violence (CRSV) in the lives of women and girls globally. Less recognition has been given to the needs of the children of victims/survivors of CRSV, including those born of rape. An intricate set of rights impediments and specific needs arise for both victims/survivors and their children that require urgent attention and response.

The adoption of National Action Plans (NAPs) on the United Nations Security Council women, peace and security (WPS) agenda presents an optimal opportunity to ensure that state-level activities are responsive to the rights and needs of victims/survivors of CRSV and their children. While NAPs-WPS are prolific globally, it remains unclear whether and how these plans are reaching the direct needs and realities of this population.

Four Asia-Pacific countries with NAPs-WPS – Indonesia, Nepal, Philippines and Timor-Leste – evidence conflict-related violence impacting women and girls. This paper critically assesses approaches to CRSV within the NAPs-WPS of these four countries with the aim of advancing understanding of these issues and their relevance to state actions. It presents guidance on how NAPs-WPS can be used to specifically and substantively address the needs of this population.¹

GENDER PLANNING FOR PEACE AND SECURITY – GENDERED NEEDS ANALYSIS

A gendered needs analysis was used as a framework to critical evaluate the NAPs-WPS of Indonesia, Nepal, Philippines and Timor-Leste. A gendered needs analysis is based on the premise that policy planning should meet both the *practical needs* (the immediate everyday *practical needs* required for day-to-day living); and *strategic needs* (longer-term needs that relate to inequalities in decision-making power and control and ownership of critical resources) of women and girls. *The intersection of practical and strategic needs* means that both must be met if equality and women's empowerment is to be achieved.

The analysis assessed the following: *To what extent have NAPs-WPS of Indonesia, Nepal, Philippines and Timor-Leste been responsive to the specific rights and needs of victims/survivors of CRSV and their children?*

SUMMARY OF FINDINGS

- All of the plans include some aspects of service provision addressing the rights and needs of victims/survivors of CRSV.
- The NAPs generally lack substantive information and data on CRSV, and on the needs of victims/survivors of CRSV and their children.
- The children of victims/survivors of CRSV do not appear in any of the plans.
- The experience of forced pregnancy and maternity, and the responsibilities of the state in this regard, are not included in the NAPs.

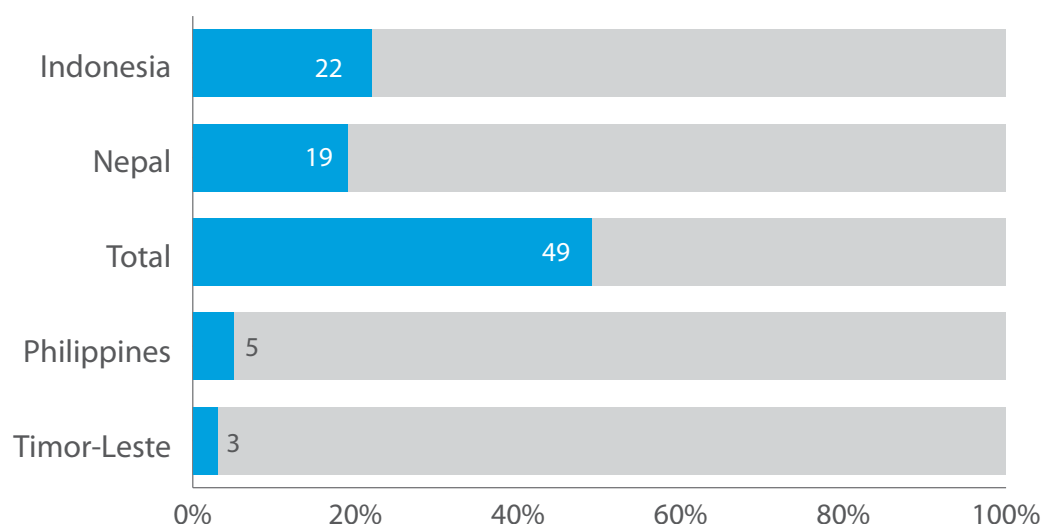
¹ This paper was commissioned by UN Women for the purposes of the UN Women and the Government of the United Kingdom Foreign & Commonwealth Office Expert Group Meeting: Addressing the needs of sexual violence survivors and children born out of rape in NAPs-WPS, convened in Thailand in January 2017.

- Disaggregated approaches to the needs of victims/survivors of CRSV on the basis of identity factors (age, ethnicity, disability etc.), are largely absent from the NAPs.
- None of the NAPs-WPS address inheritance and land rights specifically, which are key economic issues for many victims/survivors.
- There are no budgets attached to any of the NAPs to attribute specific spending for much-needed services to these populations.

Actions relating to CRSV appear to varying degrees across these four plans (see Figure 1).

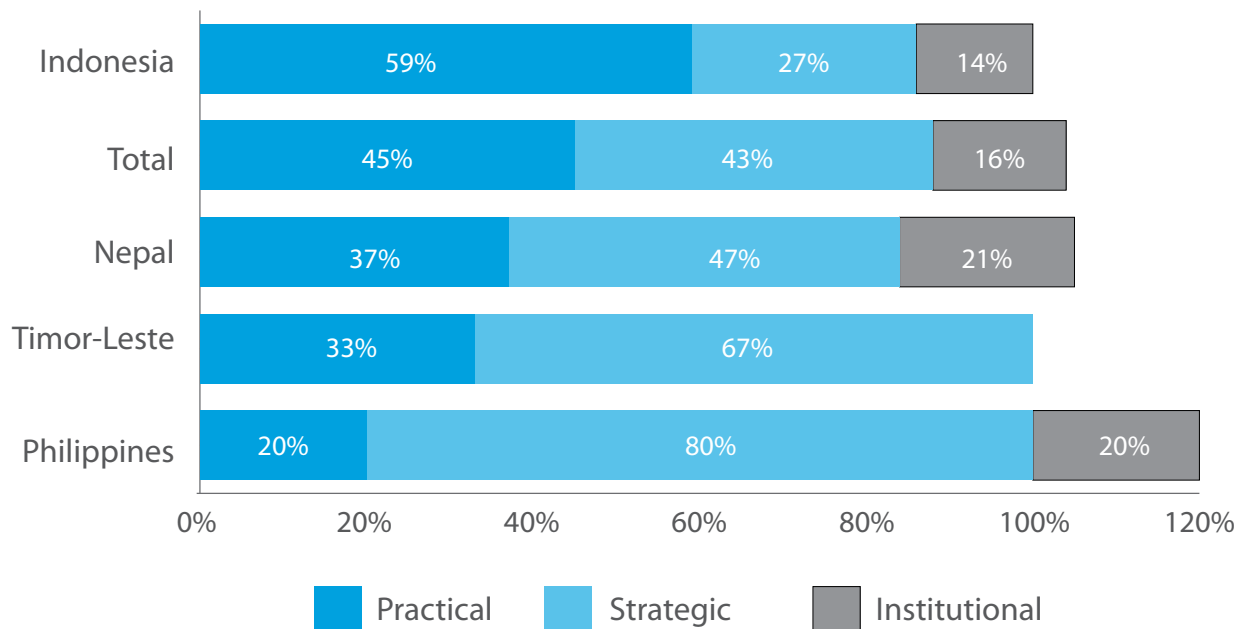
- Actions relating to CRSV represent 22% of all actions within the Indonesian NAP and 19% within the Nepal NAP.
- Comparably actions addressing CRSV within the Timor-Leste NAPs are only 3% of all actions. This analysis focuses just on the NAP-WPS. Notable is that in Timor-Leste, there is a national plan on gender-based violence which hold actions specifically focused on those issues. However, whether that plan specifically provides for the enduring impacts, legacy and needs of victims/survivors of sexual violence within the conflict (and not only for example domestic violence in the post-conflict context) requires analysis and congruence across both planning documents.

Figure 1: Percentage of actions focused on CRSV out of the total of actions within each NAP-WPS



The balance between actions focused on CRSV that address the practical or strategic needs of victims/survivors, or are focused on institutional needs, varies considerably across the plans (See Figure 2).

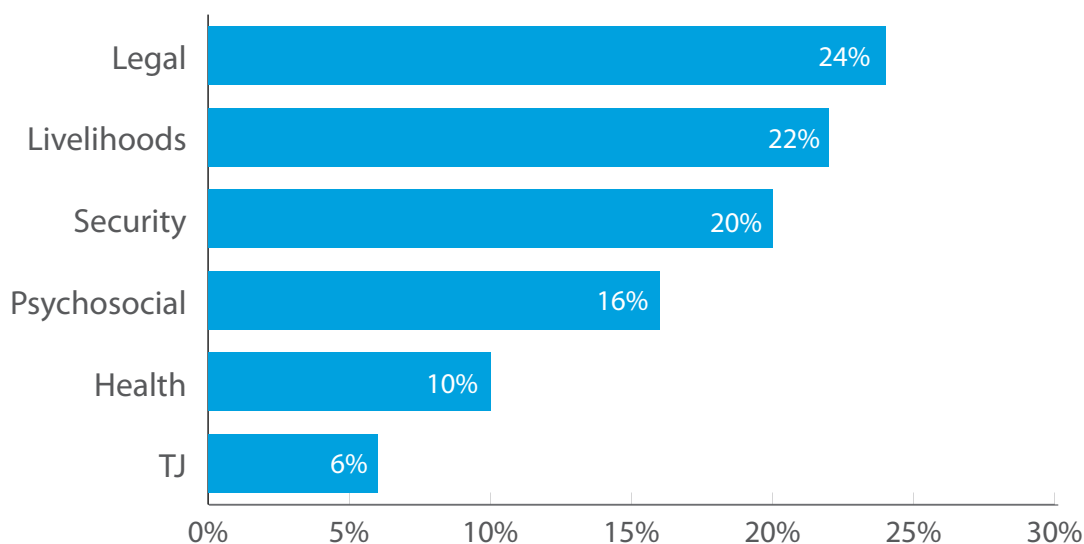
Figure 2. Proportion of Actions Addressing Practical, Strategic and Institutional Needs and Priorities relating to CRSV across the Four NAPs-WPS.*



**Note: the total in some cases exceed 100% as some actions were addressing more than one category of needs.*

There is an imbalance of actions focused on services for various aspects of the needs and rights of victims/survivors of sexual violence across the plans (see Figure 3). On average, 10% of all actions addressing the service provision needs and priorities of victims/survivors were linked to health, while transitional justice is just 6%. The provision of urgent, interim and longer-term health and psychosocial care and services is of utmost priority for victims survivors and yet is one of the weaker areas of actions included within the plans.

Figure 3: Proportion of actions on thematic areas of rights and needs across the NAPs-WPS



Evidence of a coordinated and comprehensive multi-sectoral service provision approach is generally absent from the plans i.e. NAPS-WPS are not ensuring that all four of the basic needs of health, psychosocial, legal, and protection/security services are provided for (see Figure 4).

SUMMARY OF GUIDANCE FOR INCLUSION OF CRSV WITHIN NAPS-WPS

Among the guidance and recommendations of the paper are the following :

- Include specific actions to respond to the needs of victims/survivors of CRSV. These actions should follow the multi-sectoral model approach, which should be used to frame the articulation and design of actions within the NAPs, with specific adaptation to context.
- Actions responding to the needs of victims/survivors and their children should meet a balance of their practical and strategic needs.
- Include actions that meet the basic survival and income needs of victims/survivors of CRSV and their children.
- In implementation, specific actions towards victims/survivors and to children should take 'diffuse' approaches in order to minimise stigma (and will be dependent on each context).

Further recommendations and specific guidance and examples are elaborated in more detail in the main paper.

1. INTRODUCTION

There is growing acknowledgment of the need to address the social, security, legal, health and economic impacts that multiply and sustain the repercussions of conflict-related sexual violence (CRSV) in the lives of women and girls globally. Less recognition has been given to the needs of the children of victims/survivors of CRSV, including those born of rape. An intricate set of rights impediments and needs arise for both victims/survivors and their children that require urgent attention and response.

The adoption of National Action Plans (NAPs) on the United Nations Security Council women, peace and security (WPS) agenda presents an optimal opportunity to ensure that state-level activities are responsive to the rights and needs of victims/survivors of CRSV and their children.

The purpose of this paper is to advance understanding of these issues, their relevance to NAPs-WPS and present guidance for how NAPs-WPS can be used to address the needs of this population.² The NAPs-WPS of four conflict-affected contexts in the Asia-Pacific region, Indonesia, Nepal, Philippines and Timor-Leste, are critically examined to identify critical gaps and areas of opportunity in current action planning. Guidance and recommendations for ensuring that the rights and needs of victims/survivors of CRSV and their children are addressed through NAPs-WPS is also presented. Box 1 may be used as a reference tool for terms used throughout the paper.

² This paper was commissioned by UN Women for the purposes of the UN Women and the Government of the United Kingdom Foreign & Commonwealth Office Expert Group Meeting: Addressing the needs

Box 1. Approaches to victims/survivors of conflict-related sexual violence and their children
For the purposes of this paper, the following conceptual frameworks are used:

Conflict-related sexual violence: The UN Action Against Sexual Violence in Conflict definition captures a broad range of CRSV and is used to frame this paper:³

“Conflict-related sexual violence refers to incidents or patterns of sexual violence against women, men, girls or boys occurring in a conflict or post-conflict setting that have direct or indirect links with the conflict itself or that occur in other situations of concern such as in the context of political repression.”

It notes that: “Conflict-related sexual violence takes multiple forms such as, inter alia, rape, forced pregnancy, forced sterilization, forced abortion, forced prostitution, sexual exploitation, trafficking, sexual enslavement, forced circumcision, castration, forced nudity or any other form of sexual violence of comparable gravity. Depending on the circumstances, it could constitute a war crime, a crime against humanity, genocide, torture or other gross violations of human rights.”

Victims/survivors: In line with the preferences expressed by those consulted for this paper, the term “victims/survivors” is used to allow for recognition that women are victims of sexual attack, as well as survivors in the longer term. Women who experience assault may move back and forth between those identities and using both terms here allows for that possibility.

Children of victims/survivors of CRSV: ‘Children born of war’ (CBW) is a term that is used to refer to children born as a result of rape, sexual slavery and ‘marriages’ forced by armed actors, as well as sexual exploitation and abuse by personnel of international organizations.⁴ This paper refers to ‘children of victims/survivors of CRSV’ to encourage diffuse approaches that recognise that CBW have specific needs, as well as those common to other children, including a victim/survivor’s existing/ additional children. This term is used in the paper to ensure that victims/survivors will receive support to care for all their children, and where needed and identified, children who experience specific stigma, harm and enduring loss due to their identity, will receive the specific care that they need. The term is used to ensure that CBW are not inappropriately singled out and that approaches are taken to address their specific rights and needs within wider approaches to fulfilling women and children’s rights.

2. CONFLICT-RELATED SEXUAL VIOLENCE IN INDONESIA, NEPAL, PHILIPPINES AND TIMOR-LESTE

Women and girls have experienced variant forms of violence in conflicts that have taken place in historical and contemporary times across the Asia-Pacific region, including in Afghanistan, Bangladesh, Cambodia, Sri Lanka and Viet Nam.⁵ Four of the Asia-Pacific countries with NAPs-WPS – Indonesia, Nepal, Philippines and Timor-Leste – also evidence conflict-related violence impacting women and girls.

³ UN Action, ‘Analytical and Conceptual Framing of Conflict-related Sexual Violence’, United Nations, June 2011; see also United Nations ‘Guidance Note of the Secretary-General: Reparations for Conflict-related Sexual Violence’, June 2014.

⁴ Taken from: Kai Grieg, *The War Children of the World*. War and Children Identity Project. 2001. p. 7.

⁵ See for example: Theresa de Langis, *Asia-Pacific Regional Women’s Hearing on Gender-Based Violence in Conflict, Report on the Proceedings*, Cambodian Defenders Project (2012).

Box 2. Conflict-related Sexual Violence in Indonesia (Papua)

"I was cooking at home to eat, because at that time my old mother had gone to Jayapura. At night the army picked up all the girls. One soldier entered my house. When he saw I was alone, he immediately forced me to take off my clothes, if not, I would be shot dead . . . He used a bayonet to rip my clothes and I was raped. Since then, that soldier always came and asked me to serve him until I got pregnant and had a daughter. But when this child was born she died immediately."

Taken from: Enough is Enough! Testimonies of Papuan Women Victims of Violence and Human Rights Violations 1963-2009, Documentation Working Group on Violence and Human Rights Violations Against Papuan Women, 2009-2010.

The Committee that oversees implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has expressed concerns about CRSV in all four of these contexts. For Indonesia, the Committee has raised the issue of violations of women's rights, including sexual violence, during conflicts in several regions, such as Papua, and the enduring need for justice and provision of services to these women (see Box 2).⁶ The prevalence of CRSV in the conflict in the Philippines, including against particular Muslim, indigenous communities and women in displacement sites, has been raised by the Committee (see Box 3).⁷ In Nepal, the CEDAW Committee raised concerns about lack of justice for CRSV and the need for care for post-traumatic stress and mental health impacts on women and girls.⁸ The Committee recommended that the government "Initiate a thorough and complete investigation into the perpetration of sexual abuse during the armed conflict and post-conflict periods."⁹ In Timor-Leste, the Committee raised ongoing concerns about the need for services and reparative justice for victims/survivors in that context.¹⁰

Box 3: Conflict-related Sexual Violence in the Philippines

Participant in Transitional Justice and Reconciliation Commission Listening Process:

"We women were not respected. There were instances when women were taken from their homes and raped. There was an incident when a wife was taken by a soldier, was impregnated and returned to her family when she gave birth."

Report of Transitional Justice and Reconciliation Commission, November 2016, p. 47.

6 Committee on the Elimination of Discrimination Against Women, Concluding observations on the combined seventh and eighth periodic reports of Indonesia, CEDAW/C/IDN/CO/6-7, 7 August 2012, para 27, 28.

7 Committee on the Elimination of Discrimination Against Women, Concluding observations on the combined seventh and eighth periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8, 25 July 2016, para 25, 26, 45, 46.

8 Committee on the Elimination of Discrimination Against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women, Nepal. CEDAW/C/NPL/CO/4-5, 11 August 2011, para 35, 36.

9 Concluding observations of the Committee on the Elimination of Discrimination against Women of Nepal, para 35, 36.

10 Committee on the Elimination of Discrimination Against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women of Timor-Leste, CEDAW/C/TLS/CO/2-3, 24 November 2015, para 18, 19.

See Box 4 for a summary of the range of harms that have been documented in Indonesia, Nepal, Philippines and Timor-Leste. A more in-depth overview of CRSV in each context is provided in the Annex to this paper.

Box 4. Conflict-related Sexual Violence in Indonesia, Nepal, Philippines and Timor-Leste

Patterns of CRSV across the four sites:*

- **Harm experienced in historic periods of conflict** remain unaddressed, including violence in 1965 and 1998 in Indonesia; from 1972-1981 in the Philippines; and World War II in Timor-Leste.
- **CRSV by state and non-state actors took place on a systematic as well as on an ad hoc basis, including sexual slavery** (Indonesia, Nepal, Philippines, Timor-Leste). Soldiers entered homes, as well as assaulted women outside the home (Indonesia, Nepal, Timor-Leste). Women experienced multiple sexual harms, including mutilation of sexual and reproductive organs, cutting open of pregnant women's wombs, and forced sex with husbands for soldiers' entertainment (Philippines). Many women were killed following sexual assault.
- **Women captured and held in detention** experienced forced stripping and nudity; sexual torture; sexual assault; sexual threats; rape and gang rape, including the insertion of instruments such as guns; mutilation of sexual organs and forced to 'entertain' soldiers (Indonesia, Nepal, Philippines, Timor-Leste).
- **Women were forced into 'marriages' by soldiers**, some of whom bore multiple children. In many cases women were abandoned and forced into additional forced marriages when soldiers rotated (Indonesia, Nepal and Timor-Leste). Girls were forced into early marriage to protect them from rape (Philippines).
- **Some detained women had to bring children into detention**, who were then subject to violence and/or witnessed the violation of their mothers. Some children were killed as a consequence of association with their mothers. To protect their children, some women denied and lost longer-term parental roles over their own children (Indonesia).
- **Pregnant women experienced torture and sexual assault**, threats of death and threats of murder to unborn children (Indonesia, Timor-Leste).
- **Some women forcibly recruited** into Maoist factions in Nepal experienced sexual violence; it was also used as a means of retaliation against women suspected of colluding with the state (Nepal).
- **Post-conflict gender-based violence** (physical and sexual assault in the home, intimidation and emotional abuse, and economic deprivations) remains an issue in all four contexts.

Enduring consequences of CRSV across the four sites:

- **Pregnancies:** unwanted pregnancies, and loss of existing pregnancies.
- **Harm:** enduring physical pain from injuries, psychological harm and trauma.
- **Insecurity:** intimidation by perpetrators, retaliation in some contexts, and enduring violence from family and community.
- **Stigma:** socio-cultural norms have triggered stigma, ridicule and discrimination.

- **Social exclusion:** some women are ostracised from family and community and forced to live in isolation; some women and their children are accepted by husbands and family.
- **Indigence:** women face critical social and economic marginalisation and isolation, and are unable to pay for basic medical care, food, and wider services such as education for them and their children.
- **Impunity and repair:** lack of justice for CRSV, and lack of reparation for the harm and for children.
- **Women have been forced to marry perpetrators,** both during and after the conflicts.

**The data and examples of women's experiences of violence included here reflect the availability of secondary data, rather than the entirety or reality of women's experiences in each context. A more in-depth summary of the CRSV that took place in each context and the sources of the data here is available in the Annex to this paper.*

3. UNDERSTANDING THE EXPERIENCES AND RIGHTS OF VICTIMS/ SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE AND THEIR CHILDREN

Women's experiences in these four contexts evidence the need for policy and programming that is responsive to how CRSV has taken place, how it may be experienced in differing ways by differing women and girls in each context and to its immediate and longer-term impacts. This is discussed in the following sections.

3.1 RECOGNITION OF THE BROAD RANGE OF GENDER-BASED HARMS THAT MAY TAKE PLACE IN A CONFLICT

A broad range of conflict-related violence against women, and its roots in gender inequalities, should be addressed during and after conflict.¹¹ While approaches should be tailored to each context, the potential for women to experience one or more of the following categories of violence should be recognised (see Box 5 for relevant Global Legal and Policy Frameworks).

Strategic and tactical rape: The ways in which women may be specifically targeted for sexual violence by combatants, including capture and sexual slavery, requires recognition and response. Four of the United Nations Security Council WPS resolutions focus on sexual violence "when commissioned as a tactic of conflict," demanding the cessation of these acts by all parties to armed conflict.¹²

Broader forms of harm: Increasingly, research shows that women may experience broad ranging forms of opportunistic violence by combatants as well as civilians, sexual assaults from men known

11 Catherine O'Rourke and Aisling Swaine, *Guidebook on CEDAW General Recommendation No. 30 and the UN Security Council Resolutions on Women, Peace and Security*, UN Women (2015).

12 The following resolutions focus on CRSV: UN Security Council Resolution 1820 (2008) S/RES2122/2008; UN Security Council Resolution 1888 (2009) S/RES1888/2009; UN Security Council Resolution 1960 (2010) S/RES1960/2010; UN Security Council Resolution 2106 (2013) S/RES2106/2013.

to them, and enduring intimate partner violence (IPV) during conflict.¹³ Resolution 1325 (2000) recognises that women and girls need protection “from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict.”¹⁴ Under CEDAW General Recommendation No. 30 (2013, GR30), broad forms of gendered violence perpetrated by multiple actors should be addressed.¹⁵

Post-conflict gender-based violence: Post-conflict trends in violence demonstrate the need for attention to domestic as well as sexual violence, and in some contexts to the threat posed by the presence of former combatants. The WPS resolutions and CEDAW GR 30 both set out the need to respond to women’s experiences of violence after conflict.

Box 5. Global legal and policy frameworks addressing conflict-related sexual violence

International criminal law: The Rome Statute of the International Criminal Court lists a range of crimes of a sexual nature as crimes against humanity and war crimes (17 July 1998).¹⁶

International human rights law (IHRL): While a range of IHRL instruments address violations of human rights, the Convention on the Elimination of All Forms of Discrimination (CEDAW, 1979) is specifically applicable. General Recommendation No.19 (1992) elaborates CEDAW’s applicability to addressing violence against women, while General Recommendation No. 30 (2013) in particular focuses on conflict-related violence against women.¹⁷

Resolutions of the United Nations Security Council: Of the seven WPS resolutions, four focus specifically on: “...sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations...” and set out a range of actions to generate data and respond to the needs of victims/survivors.¹⁸ Resolution 1325 (2000) also refers to “gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict.”¹⁹

The Arms Trade Treaty (2012) recognises the impact of small arms on the intensity of GBV and includes the regulation of the sale and use of arms where they are linked to prevalence of GBV.²⁰

Global policy and law relating to access to abortion: Resolution 2242 (2015) notes “the need for sexual and reproductive health services, including regarding pregnancies resulting from rape, without discrimination,”²¹ while CEDAW GR30 states that “it is discriminatory for a State party to

13 Aisling Swaine, *Beyond Strategic Rape and Between the Public and Private, Violence Against Women in Armed Conflict, Human Rights Quarterly* 37, 3 (2015): pp. 755-786; Elisabeth Wood, *Variations in Sexual Violence During War, Politics and Society*, 34,3 (2006), pp. 307-341; Rethinking Gender-Based Violence, Child Protection in Crisis Learning Network (2009).

14 United Nations Security Council Resolution 1325 (2000), S/RES1325/2000, para 10.

15 United Nations Committee for the Elimination of All Forms of Discrimination against Women (CEDAW), General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, 18 October 2013, UN Doc CEDAW/C/GC/30.

16 Rome Statute of the International Criminal Court, A/CONF.183/9 of 17 July 1998, in force on 1 July 2002. See: Articles 7, 8.

17 General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, paras 34-38.

18 United Nations Security Council Resolution 1820 (2008) S/RES2122/2008; Resolution 1888 (2009) S/RES1888/2009; Resolution 1960 (2010) S/RES1960/2010; Resolution 2106 (2013) S/RES2106/2013, para 1.

19 United Nations Security Council Resolution 1325 (2000) S/RES1325/2000, para 10.

20 The Arms Trade Treaty, 2014. See Article 7 (4).

21 United Nations Security Council Resolution 2242 (2015) S/RES2242/2015, preambular para.

refuse to legally provide for the performance of certain reproductive health services for women.”²² The Global Study on the Implementation of Resolution 1325 (2000) stated that: “Exclusion of one medical service, abortion, from the comprehensive medical care provided to the wounded and sick in armed conflict, where such service is needed by only one gender, is a violation not only of the right to medical care but also of the prohibition on “adverse distinction” found in common Article 3, the Additional Protocols to the Geneva Conventions and customary international law.”²³

3.2 RECOGNITION OF PREGNANCY AND MATERNITY AS A RESULT OF CONFLICT-RELATED SEXUAL VIOLENCE

While there is limited data available, in all four contexts women have borne children as a result of CRSV. Recognition is required of the range of complex concerns that arise for victims/survivors of CRSV in respect of their assumed reproductive roles and capacities. These include:

Intentional and forced impregnation and pregnancy: Armed groups may deliberately rape to impregnate. Deliberate impregnation has been used as a strategy by combatant groups globally, particularly where ethnic politics plays a role in the conflict and women may be detained to secure pregnancy through childbirth. ‘Forced pregnancy’ has been recognised as a war crime and crime against humanity under the Rome statute.²⁴

Unwanted pregnancy: Women may conceive as an unintended consequence of rape (whether by adversarial combatants and/or by men known to them – see box 6). Additionally, women and girls may become pregnant as a result of sexual exploitation and abuse (SEA) by staff of international organizations working in humanitarian crises.²⁵

Box 6. Nepal: The impact of rape and unwanted pregnancy

“When my family knew that I was pregnant from rape, they put a plastic tent in the farm and asked me to live under it. They didn’t allow me to remain at home after I gave birth to the baby. They built a small hut with a plastic canopy. Raindrops fell from it. What could I do? Everyone hated me. My family members approached me at times and gave me food. Later after I gave birth, the villagers found the man who raped me and brought him before the village elders. The meeting decided that the man should take care of me and the child. I was forced to ‘marry’ him but he fled after four days. No one was there to bless my baby. Where could I go at that time? I didn’t go anywhere. I endured everything silently.”

Taken from: Advocacy Forum and International Center for Transitional Justice, *Across the Lines: The Impact of Nepal’s Conflict on Women* (2010), p. 34.

²² Radhika Coomaraswamy, *Preventing Conflict, Transforming Justice, Securing the Peace: Global Study on the Implementation of United Nations Security Council Resolution 1325*, UN Women (2015), p. 78.

²³ Global Study, p. 77-78.

²⁴ Rome Statute, Articles 7, 8.

²⁵ Charli Carpenter et al. *Protecting children born of sexual violence and exploitation in conflict zones: Existing practice and knowledge gaps*. National Science Foundation, University of Pittsburgh Graduate School of Public and International Affairs and Ford Institute for Human Security (December 2004- March 2005).

Forced maternity: ‘Forced impregnation’ and ‘forced pregnancy’ should also include recognition of ‘forced maternity’ whereby women may experience unplanned/unwanted childbirth and motherhood (see Box 7).

Box 7. Mothering children born of war in Timor-Leste

During the conflict, Maria de Fatima’s husband left Timor-Leste to study in Indonesia to avoid detention by the Indonesian military. Leaving her with their two children, she was then subject to detention and was subjected to multiple sexual assaults:

“They threw us to the floor. We crawled to wash ourselves, our clothes were stripped off. After one left another would come in. We just lay on the cement crying. We could only accept it. They stripped us naked again. If we refused, they would force us. We cried and held each other. When I realized I was pregnant there was nothing I could do. I couldn’t accuse anyone, because there were so many. They took turns. I didn’t know exactly who was the father of the child I was carrying. In that condition I could only submit.

I never thought of taking revenge on the children I was carrying. I never wanted to have an abortion. I always loved them, even though they came into my womb out of wedlock. I never thought ill of my children. Let them live. I supported them by sewing and embroidery.”

Taken from: Galuh Wandita et al., *Enduring Impunity*. p. 191-192.

Forced marriage and captivity: Women who are forced into long-term association with combatants akin to ‘marriage’ experience added complexities. This includes grappling with the long-time connection to the father practically and emotionally, even where that has come about as a result of captivity/forced marriage and coercive circumstances. Multiple difficulties arise with extraction from the armed group/‘marriage’ following cessation of fighting, particularly where the father claims ‘ownership’ of the child. Mothers may be compelled to remain with the father in order to remain with her child, or to leave her child in order to exit from the armed group. In some contexts, discriminatory laws can mean that women may not hold primary legal parental claim to the child, or to child support following the cessation of conflict. Forced marriage was found to be a crime against humanity by the Special Court for Sierra Leone.²⁶

Forced contraception, abortion, sterilisation: Armed groups may force women to take contraception to prevent pregnancy resulting from their rape (e.g. ISIS²⁷); may be forced to abort pregnancies (e.g. FARC Colombia²⁸); or be forcibly sterilised (e.g. Timor-Leste²⁹) (see also Box 8).

26 Prosecutor vs. Brima, Kamara & Kanu, Case No. SCSL-2004-16-A, Case No. SCSL-2004-16-A (2008).

27 United Nations Human Rights Council, *They came to destroy: ISIS Crimes Against the Yazidis*, A/HRC/32/CRP.2, 15 June 2016.

28 Keith Stanski, ‘Terrorism, Gender, and Ideology: A Case Study of Women who Join the Revolutionary Armed Forces of Colombia (FARC), in *The Making of a Terrorist: Recruitment, Training and Root Causes*, ed. James J. F. Forest (Praeger Security International, 2006).

29 *Women and the Conflict*, Report of the Committee for Reception, Truth and Reconciliation, Timor-Leste, 2006.

Box 8. Access to abortion

Rape resulting in pregnancy during war exposes women to potentially unsafe abortion, “which is one of the five leading causes of maternal mortality, causing 13 percent of maternal deaths worldwide.”³⁰ The United Nations Secretary-General has noted that humanitarian assistance should include “access to services for safe termination of pregnancies resulting from rape, without discrimination, and in accordance with international human rights and humanitarian law”³¹ (see Box 5 for relevant global legal and policy frameworks).

Infanticide: Babies may be killed either by armed groups/the perpetrator of rape or electively by mothers.

Women’s specific experiences must be understood and addressed with recognition given to how these differing forms of harm may be experienced distinctively, as well as for some, along a continuum.

3.3 RECOGNITION OF CHILDREN OF VICTIMS/SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE

According to estimates, there are up to 500,000 living CBW globally in situations as diverse as the Democratic Republic of Congo, the former Yugoslavia, Kosovo, Liberia, Mali, Rwanda, Sierra Leone and Sudan.³²

Being born with an identity attached to the events of a conflict, its fraught politics and the deeply entrenched trauma that impacts entire populations, creates enduring challenges and concerns for those children. They are estimated to be among the most at risk in war-affected populations,³³ yet there has been a lack of attention to these children themselves, in humanitarian programming, post-conflict peacebuilding and through implementation of the WPS agenda. Experiences of these children will be influenced by:

Broader socio-cultural attitudes: Discriminatory norms and attitudes towards CRSV, towards their mothers as victims/survivors and towards the birth origins of the children themselves.

Physical location and positioning: Whether abandoned and left alone and destitute, placed in institutions of care, adopted by family or community, or with mothers or family that are socially or economically marginalised, the circumstances will differentially impact their general health and well-being.³⁴

The rights and needs of these children require specific understanding, attention and approaches that are both linked with those of the mother where appropriate, as well as distinctive to each girls’ and boys’ individual rights and needs.

³⁰ *Global Study*, p. 77-78.

³¹ Report of the Secretary-General: Women and Peace and Security, UN Doc. S/2013/525 (United Nations Security Council, 4 September 2013), para. 72(a).

³² *The War Children of the World*, p. 7.

³³ *Protecting children born of sexual violence and exploitation in conflict zones*

³⁴ Ibid.

3.4 RECOGNITION OF CONTEXT-SPECIFIC SOCIAL AND IDENTITY FACTORS

The intersection of social factors, particularly identity factors, such as ethnicity, caste, age and class, with gender inequalities can influence the experience of that violence and the needs that arise. Some women were specifically targeted in contexts such as the Philippines and Nepal due to their ethnicity, while very small children experienced sexual assaults across the four contexts. Recognition is required of:

Intersection of identity factors: Fully understanding the experiences and needs of victims/survivors of CRSV and their children requires attention to how social and identity factors will determine the meaning and impact of harms within different social contexts. Broader social identity as well as legal identity issues will be particularly acute for CBW (see Box 9).

Box 9. Securing identity for children born of war

Nationality and identity is a firm tenet of citizenship, family relations, participation in society, access to basic services such as health and education, and particularly to social protection by the state. Formal identity registration also contributes to reducing risk of abuse, neglect and vulnerability to trafficking.³⁵ Lack of identity papers and statelessness for those displaced, returning to or remaining in their original homes may result in denial of access to basic services, including for example, healthcare for mother and child, and education for the child.

In some contexts, CBW may be denied identity by the state because of requirements related to genealogy: for example women may be required to produce marriage certificates in order to receive birth certification for children, or births must be registered by fathers, or women cannot pass identity to their children.³⁶ Children of Bosnian women who were refugees during the conflict were often denied citizenship for example.³⁷ On the other hand, efforts can be made to the contrary, such as Liberia's constitution, which gave children recognition under its general provisions for citizenship.³⁸

The attainment of formal identity through state registration systems, and informally through family, is one of the greatest difficulties experienced by children born of war. UNICEF has found that the majority of contexts where less than 40 percent of children receive formal birth registration are conflict-affected.³⁹ For children born of war this can exacerbate their isolation from identity-group belonging and from much-needed social services and systems.

Along with a lack of formal status, children may be attributed status as 'children of the enemy', or an identity associated with the perpetrator group, rather than the maternal identity. This is particularly the case in countries where women do not have the right to hold identity outside of their relationship to their father or husband. These children can also be viewed as potential threats to the state and to the community upon adulthood. Lack of ability to seek out information about identity for older children who were abandoned or adopted, or who are with their family but cannot retrieve information due to the exigencies of their birth, is also a challenge.

35 UNICEF, *Birth Registration and Armed Conflict* (2007), pp. 1-2.

36 *Birth Registration and Armed Conflict*

37 *Protecting children born of sexual violence and exploitation in conflict zones*, p. 7.

38 Elizabeth Rehn Ellen Johnson-Sirleaf, *Women, War and Peace*. UNIFEM (2002), p. 16.

39 *Birth Registration and Armed Conflict*, p. 2.

CEDAW includes a provision for the right of women to pass on nationality to their children. The Convention on the Rights of the Child (CRC, 1989) also provides for the right of children to birth registration, to identity, and to state assistance and protection where identity and nationality is compromised. These are legal requirements that states parties to these conventions must fulfill and can be included in NAPs-WPS.

Social stigma: Stigma attached to sexual violence requires particular understanding and recognition. Victims/survivors of CRSV and their children do not hold stigma in themselves. Rather, stigma is generated due to negative and uninformed societal attitudes and beliefs related to gendered norms of behaviour, regulation of sexuality, marriage and reproduction. These will differ across socio-cultural contexts and thereby stigma will operate and must be understood relative to each social context. The child's experience of stigma may be attached to or separate from the mother's experience and status, which requires recognition. Also, stigma across a child's age trajectory requires recognition. For example, children might experience bullying in school, isolation from peer groups or inability to marry as adults because they do not hold a formal paternal identity (see more below). It is estimated that children who are conceived as a result of ethnically-charged rapes and policies of forced impregnation face more severe social sanctions and stigma.⁴⁰

3.5 RECOGNITION OF IMPOSED AND ELECTIVE SILENCES

Globally, there are low levels of reporting of sexual violence due to stigma and the perilous consequences that may accompany reporting in many settings, especially where political violence has taken place. Silence on the part of victims/survivors of the experience of sexual violence, and of the conception of children may be elective, as well as an 'imposed silence' in some societies due to taboo.⁴¹ Policy-responses must navigate the tensions between the rights, needs and interests of the child and of the mother, the need for their privacy, confidentiality and safety to be upheld, and their positioning within a society that may wish to forget the events of a conflict.⁴²

4. ADDRESSING THE RIGHTS AND NEEDS OF VICTIMS/SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE AND THEIR CHILDREN

Effective policy and programming responses require a full understanding of the impacts of the violence, harm and losses experienced by victims/ survivors and their children. Table 1 sets out a Typology of Losses and Impacts to further this understanding and promote appropriate policy and programming responses. The table is based on a distillation of the broad research and policy, as well as the data on the four contexts on Indonesia, Nepal, Philippines and Timor-Leste (see the Annex to this paper), discussed so far in this paper.

In Table 1, the needs of victims/survivors of CRSV and their children are set out in a way that demonstrates their distinctive, as well as common experiences. The typology is framed around factors that impinge on the rights of this population, and impact and determine their needs and interests. These include:

40 *Protecting children born of sexual violence and exploitation in conflict zones* citing Weitsman, Patricia, *Children Born of War and the Politics of Identity*, Ford Institute Working Paper, University of Pittsburgh (2005).

41 Elisa Van Ee and Rolf J. Kleber, *Growing Up Under a Shadow: Key Issues in Research on and Treatment of Children Born of Rape*, *Child Abuse Review*, 22, 6 (2013). p. 394.

42 *Growing Up Under a Shadow*, p. 394.

- Socio-cultural factors: Victims/survivors and their children may experience exclusion and isolation due to societal attitudes and stigma, leaving them at risk and indigent.
- Safety and security factors: Victims/survivors and their children may be subject to intimidation, threats and violence by returning combatants and by family and community, and thereby require specific safety measures.
- Health factors: Victims/survivors and their children may experience a multitude of negative physical and mental health impacts resulting from their experiences that require attention.
- Economic factors: Social isolation combined with exclusion from kinship networks, family resources and marital opportunities lead to economic losses that can be felt for decades.
- Legal factors: Victims/survivors and their children may be unable to claim legal 'victimhood' identities and receive little opportunity to access justice, and most importantly, reparation for the impact of harm.

The typology and lists of harms and losses are by no means exhaustive, rather indicative of what is known and has been expressed to researchers and policy makers by members of these populations. Typologies such as this should be developed for individual contexts to inform context-specific needs response planning.

Table 1. Typology of Loss and Impact for Victims/Survivors of Conflict-related sexual violence and their Children

VICTIMS/SURVIVORS OF CRSV	CHILDREN
Social and socio-cultural	
Experience of stigma	
<ul style="list-style-type: none"> • Loss of social standing and positioning as a 'woman' per pre-established norms of 'womanhood' and gendered expectations of women and women's sexuality 	<ul style="list-style-type: none"> • Loss of social standing and positioning – both because of their birth origins, as well as stigma attached to their mothers
Ostracisation	
<ul style="list-style-type: none"> • Loss of membership of family and kin networks • Treated with derision and suspicion by wider community 	<ul style="list-style-type: none"> • Treated with derision and suspicion by wider community – both as a child, and as an adult, especially if seen as a threat
Loss of lifestyle and life expectations	
<ul style="list-style-type: none"> • Loss of an existing marriage due to blame • Loss of marital prospects due to stigma and/or loss of virginity where that is a requirement of marriage, and relatedly; • Loss of prospects for future maternity 	<ul style="list-style-type: none"> • Loss of marital prospects due to stigma and/or loss of paternal 'name' and/or lack of identity • Loss of freedom to travel due to lack of identity cards

VICTIMS/SURVIVORS OF CRSV	CHILDREN
Safety and security	
Loss of familial and personal safety	
<ul style="list-style-type: none"> • Loss of social and family safety nets and networks of protection due to loss of standing and/or exclusion from family and community 	<ul style="list-style-type: none"> • Loss of benefits of mother's social and family safety nets and networks of support due exclusion from family and community
<ul style="list-style-type: none"> • Further experiences of violence in the home due to stigma and blame 	<ul style="list-style-type: none"> • Loss of support from wider social community and access to community safety nets
<ul style="list-style-type: none"> • Potential violence of returning partners or returning combatants 	<ul style="list-style-type: none"> • Experiences of and/or witnessing of violence in the home or from community towards mother • Experiences of violence in the home from mother or wider family due to stigma/blame • Risk of trafficking
Loss of formal protections	
<ul style="list-style-type: none"> • Loss of policing protection where there is collusion with familial and community attitudes 	<ul style="list-style-type: none"> • Loss of policing protection where there is collusion with familial and community attitudes
<ul style="list-style-type: none"> • Loss of policing protection for ongoing violence, threats and intimidation during transition 	<ul style="list-style-type: none"> • Loss of policing protection for ongoing violence, threats and intimidation during transition
Health, emotional and sexual	
Loss of Emotional Security	
<ul style="list-style-type: none"> • Post-traumatic Stress Disorder, general trauma and suicidal ideation, depression • Sleep disorders • Feelings of guilt, shame, isolation, blame • Prevailing sense of fear and inability to socialise in public 	<ul style="list-style-type: none"> • Attachment between mother and child weak due to her experiences • Loss of knowledge of paternal identity • Feelings of guilt, shame, isolation, blame
Loss of full ability of the body	
<ul style="list-style-type: none"> • Enduring physical pain from injuries • Physical deformities and limb loss • Loss of bowel control 	
Reproductive and Sexual Health losses	
<ul style="list-style-type: none"> • Short- and long-term hemorrhaging from attacks • Loss of existing pregnancies and of maternity (where children are killed or pregnancies lost as a result of sexual attacks) 	<ul style="list-style-type: none"> • Loss of prospects for maternity or paternity resulting from inability to marry (above)

VICTIMS/SURVIVORS OF CRSV	CHILDREN
<ul style="list-style-type: none"> • Long-term menstrual problems • Loss of fertility, injuries to reproductive organs and capacity • Sexually transmitted infections, HIV/AIDS • Fistula • Loss of sexual integrity and identity • Loss of sexual interest and practice • Loss of babies at birth, due to effects of ongoing attacks, and/or lack of medical care and food/nutrition • Loss of reproductive autonomy <ul style="list-style-type: none"> » Forced and unwanted pregnancies » Forced abortions » Forced maternity 	
Legal impacts	
<ul style="list-style-type: none"> • Lack of legal recognition of victimhood - formal redress and reparation, benefits and support 	<ul style="list-style-type: none"> • Lack of legal recognition of victimhood - formal redress and reparation, benefits and support
	<ul style="list-style-type: none"> • Loss of formal acknowledgment of status—formal redress and reparation, benefits and support
Basic survival and socio-economic impacts	
Loss of existing livelihoods and loss of ability to regenerate livelihoods due to	
<ul style="list-style-type: none"> • Loss of land and inheritance, including threats and intimidation over inheritance disputes • Loss of clientele for small businesses because of stigma • Prevention of access to dead husband's pension 	<ul style="list-style-type: none"> • Loss of equal access to education <ul style="list-style-type: none"> » Mothers unable to pay school fees » Lack of identity registration prevents school registration » Bullying and ostracisation results in inability to complete schooling
Bearing sole responsibility for sustenance of family due to:	
<ul style="list-style-type: none"> • Ostracisation and/or • Single-motherhood status 	
Entrenched poverty and indigence due to the above:	
<ul style="list-style-type: none"> • Lack of basic shelter and a home • Lack of regular access to basic food and overall food security 	<ul style="list-style-type: none"> • Lack of significant employment prospects due to lack of education • Stigma may prevent access to local employment through kin/community networks

5. ANALYSING APPROACHES TO VICTIMS/SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE AND THEIR CHILDREN IN NATIONAL ACTION PLANS ON WOMEN, PEACE AND SECURITY

National Action Plans on Women, Peace and Security (NAPs-WPS) are a critical means to direct state-level policy and programming towards the rights and needs of victims/survivors of CRSV and their children. NAPs-WPS have been adopted by 32 percent of United Nations member states.⁴³ Most plans have addressed some aspect of CRSV, although not comprehensively.⁴⁴

Nine states in the Asia-Pacific region have used NAPs-WPS to plan their responses to the gendered rights, needs and interests of women and girls in this region. These plans present a critical opportunity to ensure that the needs of this population are met. There are, however, gaps in how the NAPs-WPS in this region have been conceived, designed and implemented in respect of meeting women and girl's needs. A critical analysis of the nine Asia-Pacific NAPs-WPS undertaken for a UN Women symposium in 2016, found that NAPs-WPS have yet to fully achieve practical and strategic effects for women and girls.⁴⁵

Planning through NAPs-WPS should be informed by and responsive to the practical realities and experiences of women and girls. NAPs-WPS should house action points, outcomes, indicators and budgets that respond to the rights and needs that directly arise as a result of the losses, impacts and experiences of victims/survivors of CRSV and their children detailed in Table 1.

The four NAPs-WPS of Indonesia, Nepal, Philippines and Timor-Leste were critically assessed to identify whether and how those plans respond to victims/survivors of CRSV and their children. First, a 'practical and strategic needs analysis' framework was developed to identify the rights and needs of this population, that arise from their experiences, losses and impacts. Second, the practical and strategic needs framework was applied to the plans. These frameworks are detailed in the following sections:

5.1 PRACTICAL AND STRATEGIC NEEDS FRAMEWORK FOR VICTIMS/SURVIVORS OF CRSV AND THEIR CHILDREN

A context-specific "Gender Needs Analysis"⁴⁶ based on an assessment of the differing practical and strategic needs that arise for victims/survivors of CRSV and their children should be developed. See Box 10 for an explanation of the practical and strategic needs analysis framework.

43 Aisling Swaine, *Globalising Women, Peace and Security: Trends in National Action Plans*, in Sahla Aroussi (ed.), *Rethinking National Action Plans on Women, Peace and Security*, NATO Science for Peace and Security Series, Amsterdam: IOS Publishing (2017).

44 Kerry Crawford, *An analysis of state-level policies regarding conflict-related sexual violence* (2016). (on file with author).

45 Aisling Swaine, *Making Women and Girl's Needs, Well-Being and Rights Central to National Action Plans in the Asia-Pacific Region*, Discussion Paper, UN Women (2016).

46 See: Candida March, Ines Smyth, Maitrayee Mukhopadhyay, *A guide to Gender Analysis Frameworks*, Oxfam GB (1999).

Box 10. Gender planning for peace and security

"Gender Planning aims to achieve gender equality and women's empowerment. Through gender planning strategies, gender awareness and analysis is translated into specific priorities and actions."⁴⁷ Gender Planning for Peace and Security can use 'Gender Needs Analysis' tools to ensure that policy, programming and planning strategies, such as NAPs-WPS, meet both the practical and strategic needs of victims/survivors of CRSV and their children:

Practical needs: are the immediate everyday practical needs that respond to a specific practical necessity and arise within women and girl's normative roles in society. For victims/survivors of CRSV and their children, this will include access to basic needs such as food and shelter, protection, health care and other services.

Strategic needs: are longer-term needs that relate to broader structural inequalities and positioning of rights and power in relation to the wider social, political and economic context. For victims/survivors of CRSV and their children, this will include legal responses to violence, rights to inheritance and livelihoods, reproductive rights for women, rights to birth registration and family name for children, recognition of victimhood and compensation for the same.

Intersection of practical and strategic needs: both categories of needs should not be considered mutually exclusive, rather they are inter-related and should be advanced on an inter-relational basis. A change in practical needs will inevitably have some bearing on and enable broader strategic needs to be addressed. Often, to make changes in strategic level needs, the practical needs become the entry point.

To learn more about Gender Planning for Peace and Security in NAPs-WPS and further explanation and examples of 'practical and strategic needs analysis' see: Aisling Swaine, 'Making Women's and Girl's Needs, Well-being and Rights Central to National Action Plans in the Asia-Pacific Region, for a Symposium on National Action Plans in the Asia-Pacific Region, UN Women (2016).

A generalised example of a 'Practical and strategic needs analysis' was developed for victims/survivors of CRSV and also for their children and applied to the four NAPs-WPS. The analysis was undertaken on a disaggregated basis so that the distinctive needs of each population are identified and met. Tables 2 and 3 below set out these generalised examples. These are estimated needs based the typology of experience, loss and impact outlined earlier in Table 1.

⁴⁷ *Making Women's and Girl's Needs, Well-being and Rights Central to National Action Plans in the Asia-Pacific Region*; The Gender Planning framework and Gender Needs Analysis tools were originally drawn from: Caroline O. N. Moser, *Gender Planning and Development: Theory, Practice and Training*, London, New York: Routledge, 1993.

Table 2. Victims/Survivors of Conflict-Related Sexual Violence

PRACTICAL NEEDS (Short-term and immediate basic needs for day-to-day functioning)	STRATEGIC NEEDS (Longer-term rights-based needs for structural social operation)
Social and socio-cultural	
Secure positioning and belonging in community	Right to full social and sexual life
Access to family and kin networks	Policies and strategies in place to change negative attitudes, social and cultural norms and stigma related to CRSV and children born of war
Support for basic community participation, including shelter based in own communities (where safe)	
Protection	
Ability to access a safe and secure public life	Protection from further violence
Access to community networks and safety nets	Legal and security services provide protection from ongoing threats, intimidation and attacks
	Strategies to tackle the root causes and prevent violence against women and girls
Health, emotional and sexual	
Access to basic health and reproductive health services and remedies for harm	Reproductive rights secured, including availability of specialist services for reproduction, sexual health, abortion, fertility and fistula repair services
Access to psychosocial care and support	Guarantee of reproductive rights; provision of sexual and reproductive rights services; access to abortion services within displacement and post-conflict contexts
Legal	
	Recognition of victimhood formally secured through law/formal recognition of victimhood include victims/survivors of CRSV
	Reform of discriminatory legislation and policy that disadvantages women and girls
	Right secured in law to pass identity onto children, to register births, and to ownership of children
	Justice mechanisms provide redress for harms incurred
	Legal and policy provisions for child support and child care support



PRACTICAL NEEDS (Short-term and immediate basic needs for day-to-day functioning)	STRATEGIC NEEDS (Longer-term rights-based needs for structural social operation)
	Adoption of laws and policies with provisions to tackle and prosecute violence against women and girls
Basic survival and economic	
Food security – access to food	Access to safe, fairly paid and sustainable livelihood
Access to non-food items - adequate shelter and a home, basic material goods such as clothing	Ability to avail of entitlements, pensions and benefits
Protection from violence and threats over resources	Legal right to inheritance, to own land and resources
Access to income generation opportunities	Access to sustainable livelihoods and entrepreneurship initiatives
	

Table 3. Children of Victims/Survivors of Conflict-related sexual violence

PRACTICAL NEEDS (Short-term and immediate basic needs for day-to-day functioning)	STRATEGIC NEEDS (Longer-term rights-based needs for structural social operation)
Social and socio-cultural	
Secure positioning and belonging in community	Safe mobility rights guaranteed within public transport provision
Access to family and kin networks	Policies and strategies in place to change negative attitudes, social and cultural norms and stigma related to CRSV and CBR
Protection	
Access to community networks and safety nets	Strategies to tackle the root causes and prevent violence and stigma against CBR
	Legal and security services provide protection from ongoing threats, intimidation and attacks
Health, emotional and sexual	
Access to health care	Laws, policies, behaviour change programmes to remove stigma and enable marriages etc.
Access to psychosocial care and support	Right to marry upon adulthood secured

PRACTICAL NEEDS (Short-term and immediate basic needs for day-to-day functioning)	STRATEGIC NEEDS (Longer-term rights-based needs for structural social operation)
Legal	
	Identity cards, birth registration
	Safe mobility rights guaranteed within public transport provision
	Formal recognition of victimhood includes CBW
	Legal and security services provide protection from ongoing threats, intimidation and attacks
	Adoption of laws and policies with provisions to tackle and prosecute violence against children
Basic survival and economic	
Food security – access to food	Completion of basic education; provisions to enable further education
Access to non-food items - adequate shelter and a home, basic material goods such as clothing	Education linkages to fair and equal employment opportunities
Access to education	
Access to income generating opportunities	
	

The needs of victims/survivors of CRSV and of their children arise not only because of specific incidents of violence, for example, the physical injuries that result from violent rape. These experiences are also **defined by how they are perceived, understood and responded to by the broader social system in which they live**. Responding to needs through gender planning processes like NAP-WPS should thereby take account of:

- the **gendered context** in which needs arise, i.e. existing and fluid gender norms, gendered social relations, expectations and inequalities;
- the **socio-cultural location** in which gendered needs arise and that influence differences in access to and decision-making power over available resources;
- the **multiple and layered inequalities** that give rise to gendered needs on the basis of the intersection of gender with age, race, ethnicity, religious, economic and additional and variant identity factors.⁴⁸

For victims/survivors of CRSV and their children, additional contextual and structural conditions require attention:

- the nature of the conflict and whether ethnically charged rape, forced pregnancy and forced maternity took place, and meanings attributed to those harms by social norms in that context;

⁴⁸ Making Women and Girl's Needs, Well-Being and Rights Central to National Action Plans in the Asia-Pacific Region, p. 21.

- the response of the state to victims/survivors CRSV and their children – whether the state recognises and specifically supports women and their children, or they are neglected, ignored or made invisible by the state and their stigma reinforced;
- the presence of and peculiarities of stigma attached to sexual violence, maternity and children born outside of marriage and how that operates in each context. Stigma poses barriers to reporting and availing of services and benefits, and also to everyday functioning in social context, which will influence the extent of need and delivery of response.

The application of the practical and strategic needs analysis framework to the four NAPs-WPS was guided by the following research question:

To what extent have NAPs-WPS of Indonesia, Nepal, Philippines and Timor-Leste been responsive to the specific rights and needs of victims/survivors of CRSV and their children?

Specifically, the review of the WPS-NAPs sought to identify:

- where and how victims/survivors of CRSV and their children feature in the NAPs-WPS;
- what actions are included in NAP-WPS to meet the practical and strategic needs of victims/survivors of CRSV and their children, i.e. provision of services directly to this population;
- what actions are included in NAPs-WPS to meet the livelihood needs of victims/survivors;
- in what way NAP-WPS are reaching and meeting the needs of children of victims/survivors of CRSV in these four contexts.

A textual analysis of each of the four countries' NAPs was undertaken. This included:

Analysis of the narrative and framework for each plan. The narrative was reviewed to ascertain where and how issues of CRSV feature in the overall framing of the plan (i.e. the narrative used to explain the positioning and focus of the plan).

A systematic analysis of the action matrices for each plan. The matrices were assessed in terms of:

- whether actions addressing the practical and strategic and needs of victims/survivors of CRSV and their children featured in the NAPs; and
- whether service provision for victims/survivors was included in the NAP.

Each of the NAPs-WPS were assessed at the level of the action plan document itself and attendant issues arise: this analysis does not include review of implementation of activities related to the plan, nor actions that are not contained in the plan but may be taking place at country levels. The analysis is thereby limited to the content of the NAP-WPS document itself. This is the very purpose of this review: to ascertain whether NAPs-WPS, i.e. the 'plans' are achieving their stated aims and using gender planning for peace and security to address the critical needs of victims/survivors of CRSV and their children.

6. FINDINGS: VICTIMS/SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE AND THEIR CHILDREN IN NATIONAL ACTION PLANS ON WOMEN, PEACE AND SECURITY

6.1 OVERVIEW OF FINDINGS

The NAPs-WPS go some way to addressing the needs and rights of victims/survivors of CRSV.

- All of the plans include some aspects of service provision addressing the rights and needs of victims/survivors of CRSV.
- The NAPs generally lack substantive information and data on CRSV, and on the needs of victims/survivors of CRSV and their children. There is little data available on these issues and the affected populations in these contexts. The need to address gaps in data within are not fully addressed through action points in all the NAPs.
- The children of victims/survivors of CRSV do not appear in any of the plans.
- The experience of forced pregnancy and maternity, and the responsibilities of the state in this regard, are not included in the NAPs.
- There is a lack of a fulsome coordinated approach to multi-sectoral service provision for victims/survivors within the NAPs.
- Disaggregated approaches to the needs of victims/survivors of CRSV on the basis of identity factors (age, ethnicity, disability etc.), are largely absent from the NAPs.
- None of the NAPs-WPS address inheritance and land rights specifically, which are key economic issues for many victims/survivors.
- The provision of access to specific reproductive health needs, such as abortion, fertility issues and fistula repair services, are not mentioned in any of the NAPs.
- There are no budgets attached to any of the NAPs to attribute specific spending for much-needed services to these populations.

6.2 ANALYSIS OF THE NARRATIVES OF NAPs-WPS

The application of the gender planning needs analysis framework to the four NAPs-WPS found the following:

(i) Conflict-related sexual violence

Analysis of CRSV within the NAPs varies considerably.

- Nepal, the Philippines and Timor-Leste acknowledge and discuss the conflicts experienced in their countries.
- Indonesia to a much lesser degree. The Indonesian plan does not provide background data on the circumstances of women and girls in specific conflict-affected regions.
- Timor-Leste in comparison takes its period of conflict as its starting point, with in-depth analysis of women's experiences of the conflict and of CRSV.

There is a dearth of evidence and data in the action plans on the specific experiences of CRSV, the kinds of violence that took place and resulting impacts. Noteworthy is that it may be difficult in some contexts

to elaborate on such issues in detail within NAPs-WPS due to political sensitivity, particularly where conflict issues remain unresolved and/or where states are wary of obligations under international law.

- The narrative in the Timor-Leste NAP however cites evidence of CRSV from the report of its Truth Commission. Of the four contexts, Timor-Leste is the only one that has produced an official report based on its truth-seeking process and thereby has more available data than the other contexts. The value of transitional justice measures and the resulting official research, evidence, narratives and documentation of stories of those who experienced the conflict is evident here, and is a critical tool in evidencing need and informing policy responses.
- The Indonesia, Nepal and Philippines NAPs include an action to generate data. The Indonesia action is focused on gathering data on “women and children in conflict areas” (Prevention, Activity 1), and to “Conduct studies of gender-based violence cases from conflicts” (Prevention, activity 2) and “women and children who need care;” the Nepal NAP aims to “raise awareness by collecting data on all forms of SGBV against women and girls” and the Philippines NAP is focused on “documenting the impacts of armed conflict on women” (Purpose 1, Action 8). The need for specificity of data generation on victims/ survivors of CRSV and their children is evident here.

The direct needs of victims/survivors are made evident to different degrees in the plans.

- The Indonesia NAP provides a long and detailed list of the “basic needs” of “victims of conflict violence,” including reference to food and non-food items, reproductive, pregnancy and menstrual needs. Responses to these practical needs are included in the NAP matrix also. Hence, of the four plans, the Indonesia plan ranks highest in terms of meeting the practical needs of victims/survivors (see below).
- The Nepal NAP discusses CRSV and arising needs to some degree. The main narrative text focuses primarily on the need for justice for crimes, which is an important right to fulfill and focus on, while then also discussing some of the wider needs.

Attention to post-conflict violence and its relevance to the NAP-WPS is lacking. Again, the Timor-Leste NAP provides some mention of this, including reference to its political crisis in 2006 and its impacts. It also gives detail of the prevalence of domestic violence in Timor-Leste, and makes a link between addressing gender-based violence and conflict prevention and early-warning systems. This is not carried through into the matrix however.

There are only vague references to whom the NAP-WPS is assisting in regards to CRSV. Implementation that is effective and tailored to specific women and girls will be impeded as a result.

- For example, the Indonesia NAP matrix frames actions around “women and children who are victims of conflict” and “victims of violence in conflict zones.” These may or may not include victims/survivors of CRSV and their children, and arguably everyone living in a conflict zone is in some way affected by conflict. Implementation of the NAP would have to “read in” whether and how victims/survivors of CRSV and their children are going to specifically benefit under such vague articulation of actions.

The NAP narratives give little mention to how women and girls of different ages, ability, ethnicity and other identities and abilities, will have experienced CRSV.

- The Nepal NAP mentions different communities and abilities in its narrative and the Philippines plan mentions Moro women as needing particular attention.

- It is critical that the ways in which different factors such as ethnicity may have left women more or less vulnerable to sexual violence and forced impregnation and maternity, are identified so that their specific needs, attachments of stigma and social positioning may be understood and responded to.

Innovations are evident in some NAPs. For example, the Philippine NAP includes analysis of the linkages between small arms proliferation and gender-based violence. The NAP document notes that “[s]mall arms...facilitate a vast spectrum of human rights violations, including killing and maiming, rape and other forms of sexual violence... [s]mall arms are directly linked to women’s death, injuries, rape and forced displacement during conflict and post conflict situations.” An important link is made between the proliferation of small arms, armed political violence and the prevalence of sexual violence impacting women and girls. More importantly, this analysis is followed through with a specific action on this issue in the matrix (see page 4 of the narrative and action point 5 in the matrix).

(ii) Children of victims/survivors of CRSV

The children of women who have experienced CRSV are not specifically mentioned in any of the four plans.

- There are no specific references to this population (e.g. “children born of war” or “children born of rape”) broadly speaking, nor specific reference to the aforementioned data from those contexts that evidences that some women who experienced CRSV will have borne children as a result and both will need common as well as distinctive sets of responses.
- There is no mention of women who have children as a result of SEA with staff of international organisations and specific support that they might need.

There are (thereby) no specific actions in any of the plans to address the rights and needs of children of victims/survivors of CRSV. Their relevance to victims/survivors’ rights and needs and to the implementation of the broader WPS agenda (whether girls or boys) is not made evident in the plans.

Women who may have been raped and become pregnant as a result of rape are mentioned in the Nepal NAP only.

- The Nepal NAP-WPS elaborates a specific framework for its delineation of categories of people and areas of action under the plan. Under its definitions, a delineation of “conflict-affected women and children” are included and an indicative typology of what this category entails is provided. The list includes a range of “conditions” that will have affected this demographic. It specifically references:
 - » Former women and girl combatants who are pregnant, or nursing mothers or have infants with them and who are either living in the cantonments or outside.
 - » Women or girls who because of sexual exploitation or rape became pregnant and were compelled to give birth or to undergo abortion.
 - » There are no specific actions focused on their role in caring for their children within the plan’s action matrix, however.

The experience of ‘forced maternity’ for women, or issues arising in relation to this experience, is not mentioned as a condition facing women and girls. What it might mean to not only be raped and conceive as a result, but then carry a child through to term and raise that child, are variant and distinctive experiences on a spectrum of the impacts of rape in respect of women’s reproductive

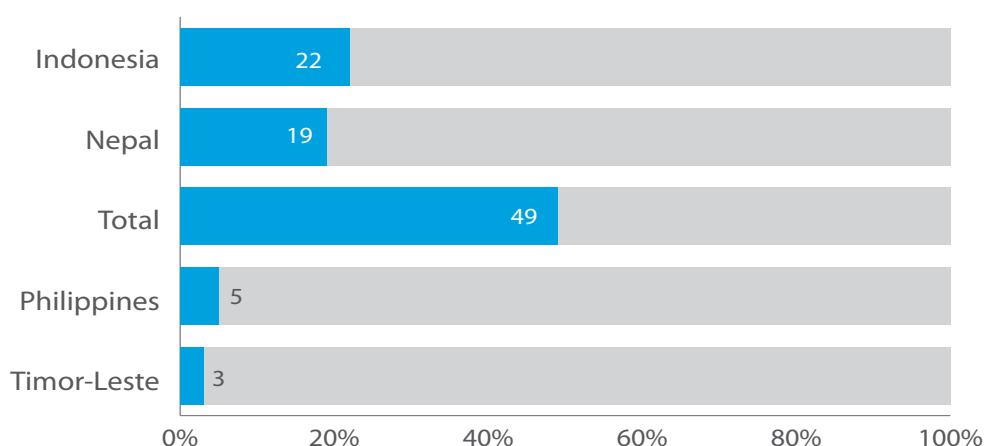
capacity and in many cases, forced reproduction. Women respond to forced maternity in different ways, some embrace their pregnancy and child, others may attempt to abort or commit infanticide, and others live uneasily with their motherhood. The need for governments to support women with this experience, both practically, in terms of provision for her and her child, but also emotionally and psychologically is urgent, for the health and well-being of both.

6.3 ANALYSIS OF THE ACTION PLAN MATRICES

(i) Analysis of actions that address practical and strategic needs of victims/survivors and their children

The application of the Gender Needs Analysis Framework to the four NAPs found the following:

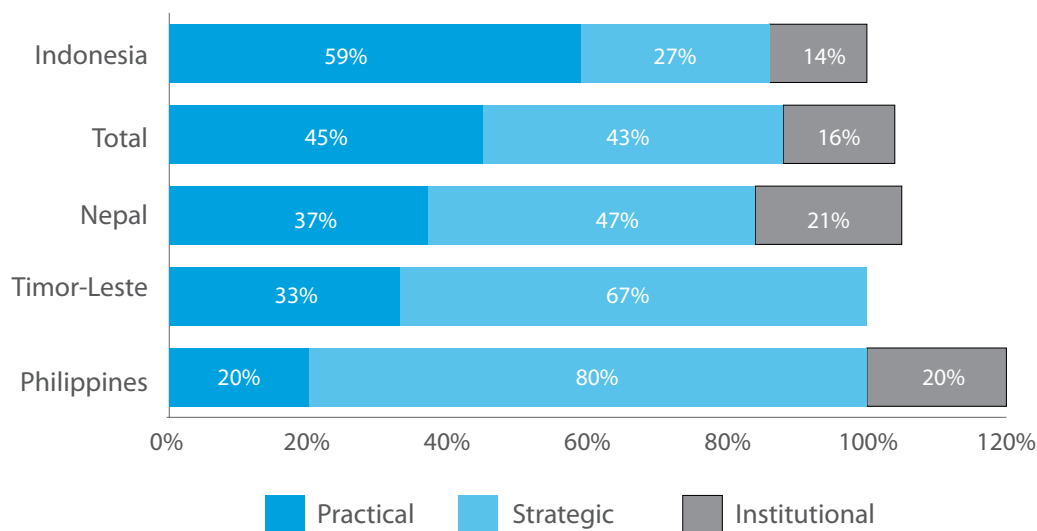
Figure 1: Percentage of actions focused on CRSV out of the total of actions within each NAP-WPS



Actions relating to CRSV appear to varying degrees across these four plans.

- Actions relating to CRSV represent 22% of all actions within the Indonesian NAP and 19% within the Nepal NAP.
- Comparably actions addressing CRSV within the Timor-Leste NAPs are only 3% of all actions. This analysis focuses just on the NAP-WPS. Notable is that in Timor-Leste, there is a national plan on gender-based violence which hold actions specifically focused on those issues. However, whether that plan specifically provides for the enduring impacts, legacy and needs of victims/survivors of sexual violence within the conflict (and not only for example domestic violence in the post-conflict context) requires analysis and congruence across both planning documents.

Figure 2. Proportion of Actions Addressing Practical, Strategic and Institutional Needs and Priorities relating to CRSV across the Four NAPs-WPS.*



**Note: the total in some cases exceed 100% as some actions were addressing more than one category of needs.*

The balance between actions focused on CRSV that address the practical or strategic needs of victims/survivors, or are focused on institutional needs, varies considerably across the plans.

- Overall, there appears to be balance in terms of practical and strategic needs focus for victims/survivors when the plans are analysed together. Only 16% of the actions are institutional focused which provides some optimism that in relation to CRSV, victims/survivors are the primary focus of actions, rather than the institutions themselves.
- However, when each plan is analysed individually, divergences appear which provide considerations for action planning in response to CRSV.
 - » The Indonesia NAP's actions on CRSV are primarily practical-needs focused (this is congruent with earlier analysis of the plan that found that the overall focus of this plan is skewed towards practical provisions⁴⁹). In this case, while it is imperative that practical needs are addressed, corresponding actions that advance the strategic rights of victims/survivors must also be furthered.
 - » In the Philippines NAP, the opposite is the case. The majority of actions related to CRSV are at the strategic level. While this will work to promote longer-term changes, the day-to-day needs of victims/survivors must be addressed if those longer-term rights are to be availed of and fulfilled.
 - » Timor-Leste has no actions relating to institutional development and response to CRSV. Ideally, the majority of actions should be directly focused on the lives of victims/survivors. The capacity needs of institutions does require consideration however. Where addressed, this would be done in proportional response in respect of prioritising the victims/survivors themselves.⁵⁰

49 See findings section of: *Making Women and Girl's Needs, Well-Being and Rights Central to National Action Plans in the Asia-Pacific Region*,

50 See further: *Making Women and Girl's Needs, Well-Being and Rights Central to National Action Plans in the Asia-Pacific Region*,

The action points in the matrices are to some extent vague in respect of generally lacking a focus on victims/survivors of CRSV.

- For example: The Timor-Leste NAP includes an action to “Conduct advocacy for the State to provide pensions for women veterans in accordance with existing laws” (Output 3.3/Specific Activity 3.4.5.). This is targeted at veterans. Two issues arise. First, that women’s status as veterans remains contested in this context, but where recognition is given of veterans’ status, this may/may not include women who have experienced sexual violence and had children as a result of rape. Second, there is an advocacy argument to be made that women who have experienced sexual violence and forced maternity could/should be recognised as veterans of the war.⁵¹ In both cases, women would receive benefits. However, it is not stipulated specifically in the NAP that women’s experiences of CRSV would be recognised in respect of veteran status and receipt of benefits.

Approaches to inclusion of forms and phases of violence in the action plan matrices varies.

- The Nepal NAP includes actions that cover issues such as SEA by security sector actors, broader gender-based violence, as well as a specific action on conflict-related gender-based violence and addressing this issue in peace agreements. This represents a comprehensive approach in respect of addressing multiple forms and manifestations of violence, and demonstrating the relevance of conflict-time and post-conflict violence to the NAP (see Box 11 below).

Box 11. Implementation of the first Nepal NAP: Remaining gaps on conflict-related sexual violence

The Nepal NAP was among the first formal government document to acknowledge⁵² that “women also suffered from sexual violence during the conflict as well as the transition period due to the weak law and order situation.”⁵³ The Action Plan, adopted in 2011, is lauded as a critical step forward in the country’s, and particularly women’s, recovery from the conflict. Its implementation has however been critiqued. A desk review by UN Women found that, similar to other NAP-WPS globally, its implementation stage has resulted in more of a focus on generating awareness of the NAP and WPS agenda itself among stakeholders, rather than implementing substantial activities.⁵⁴ For CRSV, the results are mixed. A range of support services, shelters and some economic empowerment programmes have been established for victims/survivors. However, critical gaps remain: there has been continued lack of documentation of CRSV, security responses remain weak, as does justice for conflict-related crimes, with a recently established truth commission slow to address sexual violence.⁵⁵

51 See for example: Susan Harris-Rimmer, *Gender and Transitional Justice: The Women of East Timor*, Routledge (2010).

52 Human Rights Watch, *Silenced and Forgotten: Survivors of Nepal’s Conflict-Era Sexual Violence* (2014), p. 13.

53 Government of Nepal, *Nepal National Action Plan* (2011), p. 5.

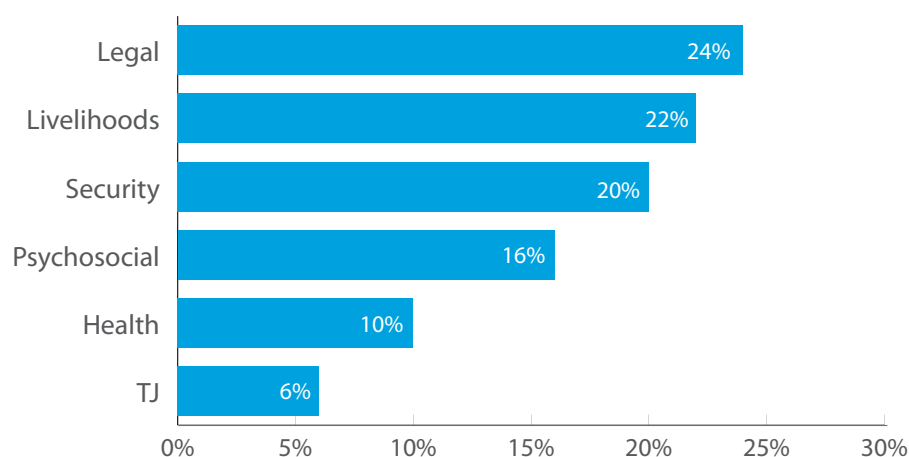
54 UN Women Nepal, *Desk Review of NAP Implementation on UNSCRs 1325 and 1820 and related documents* (2016) (on file with author)

55 See generally: *Desk Review of NAP Implementation on UNSCRs 1325 and 1820 and related documents*

(ii) Analysis of Service Provision to Victims/Survivors of CRSV and their Children

The actions relating to CRSV within the four NAPs-WPS vary in terms of their thematic or substantive focus on multi-sectoral areas of service provision, as follows:

Figure 3: Proportion of actions on thematic areas of rights and needs across the NAPs-WPS

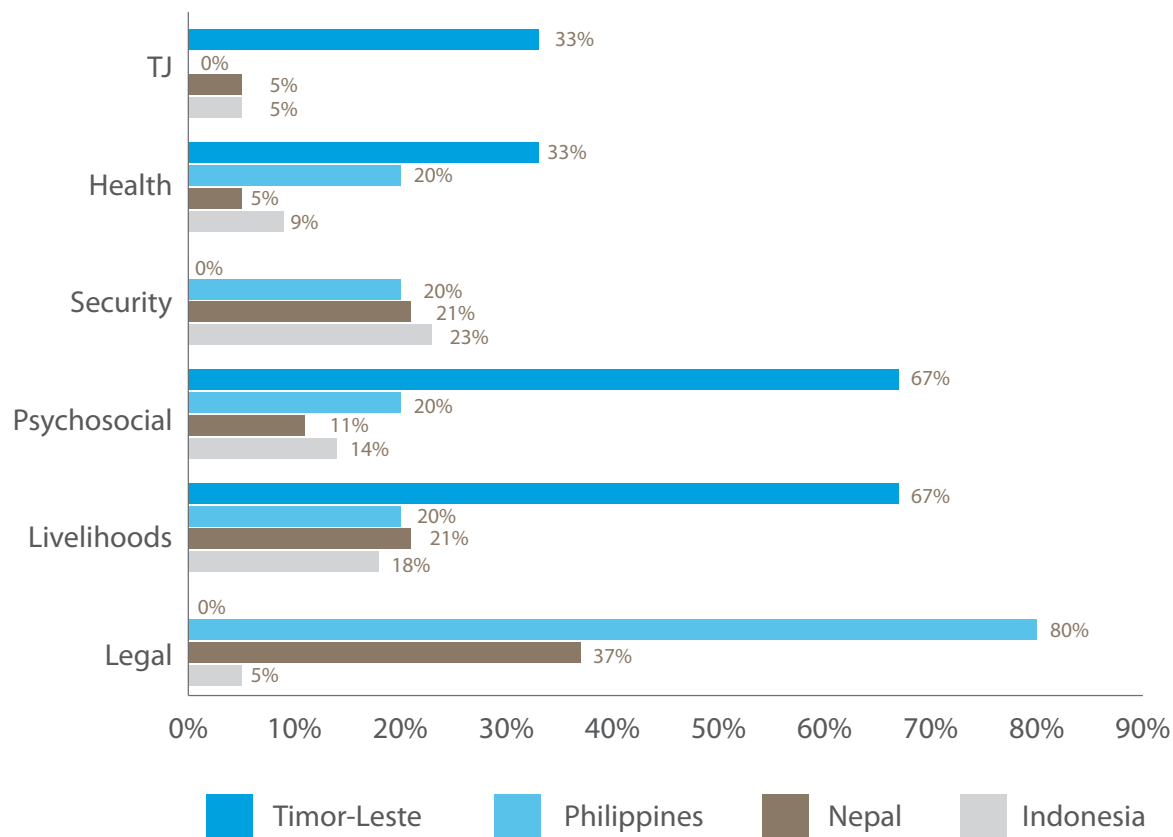


There is an imbalance of actions focused on services for various aspects of the needs and rights of victims/survivors of sexual violence across the plans (see Figure 3).

- Of these, there is a stronger focus on legal reforms and legal services, while transitional justice and health measures receive the least attention across the plans.
- Between 20% and 25% of all actions addressing the service provision needs and priorities of victims/survivors of CRSV in NAPs-WPS were linked to legal assistance, security support, and livelihoods.
- On average, 10% of all actions addressing the service provision needs and priorities of victims/survivors were linked to health, while transitional justice is just 6%.
- About 16% of all actions were linked to psychosocial support.
- The provision of urgent, interim and longer-term health and psychosocial care and services is of utmost priority for victims survivors and yet is one of the weaker areas of actions included within the plans.



Figure 4: Proportion of actions on thematic areas of rights and needs within each of the NAPs-WPS



Evidence of a coordinated and comprehensive multi-sectoral service provision approach is generally absent from the plans i.e. NAPS-WPS are not ensuring that all four of the basic needs of health, psychosocial, legal, and protection/security services are provided for (see Figure 4).

- Indonesia, Nepal and the Philippines have actions relating to all four sectors in some way, although it is not clear that these are deliberately framed around the need for a comprehensive multi-sectoral and balanced approach to service provision.
- Actions on legal support are the most common across these three plans, which respond to the number of 'strategic needs' noted above.
- In the Indonesia NAO, actions on service provision were mainly linked to security support (23%) and livelihoods (18%); and moderately to overall health support and psychosocial support (9% and 14%).
- In Nepal, these actions were mainly linked to providing legal support (37%); while security and livelihoods were equally at 21% of these actions.
- In Philippines, actions on service provision were mainly about providing legal support (80%); the remaining 20% captured four other areas: health, psychosocial, security and livelihoods.
- In Timor-Leste, actions are focused on livelihoods, psychosocial support, and access to health. The Timor-Leste NAP is missing actions related to protection/security and legal services however.
- As noted, actions related to health, critical for women who have experienced CRSV, and who may also experience pregnancies, is the least common action within the plans.

None of the NAPs have specific actions related to women's inheritance rights, which are critical, particularly in rural and agrarian societies where victims/survivors may be indigent and unable to claim access or ownership to livelihood resources, particularly land.

Three of the plans provide for Transitional justice (Indonesia, Nepal and Timor-Leste).

- However, these are vaguely framed, with Indonesia referring to restitution for “women and children who are victims of violence in conflict areas” and Nepal establishing a truth commission (with no specific reference to provisions for CRSV within that). The Timor-Leste NAP mentions the following: “Pillar IV, Peacebuilding; 4.3.2. Implementation of CAVR and CVA’s recommendations including monitoring in relation to women’s rights including women victims of sexual violence and people with disabilities particularly victims of the war.”

7. GUIDANCE TOWARDS INCLUSION OF ACTIONS TO ADDRESS THE NEEDS OF VICTIMS/SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE AND THEIR CHILDREN

A set of recommendations and actions are set out here to provide guidance for advancing actions to address the practical and strategic needs of victims/survivors of CRSV and their children through NAPs-WPS. Additional information of relevance and guidance is set out in the accompanying text boxes.

7.1. ACTIONS TO ADDRESS THE NEEDS OF VICTIMS/SURVIVORS OF CRSV AND THEIR CHILDREN

- A. Include specific actions to respond to the needs of victims/survivors of CRSV. These actions should follow the multi-sectoral model approach,⁵⁶ which should be used to frame the articulation and design of actions within the NAPs, with specific adaptation to context. Box 12 below provides information on the kinds of provisions needed to meet victims/survivors needs in this way.**

Box 12. Multi-sectoral approach to addressing gender-based violence adapted to conflict and post-conflict contexts

HEALTH	SECURITY/POLICING
<ul style="list-style-type: none"> • Post-rape and forensic clinical services available • Protocols for clinical-response to sexual violence adopted and implemented by health services • Wider immediate health needs of victims/survivors addressed by trained health staff 	<ul style="list-style-type: none"> • Avenues for safe reporting to policing or authorities available • Policing is undertaken with confidentiality and in line with standard operating procedures • Safety and protection of victims/survivors upheld by policing services

⁵⁶ For further guidance see: UN Inter-Agency Standing Committee, Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery, United Nations (2015).

- Documentation of cases confidentially
- Access to emergency contraception and abortion services
- Specialist services, e.g. fistula repair available

- Cases documented confidentially
- Protocols consistent with human rights standards and codes of conduct on SEA implemented
- All policing services trained on response to CRSV, broader forms of gender-based violence and protection of CBR

LEGAL/JUSTICE

- Revise discriminatory laws and/or develop specific legal protection on sexual violence
- Provide for the right to identity through maternal lines and specifically for CBW
- Uphold the rule of law in line with human rights standards
- Judiciary is trained in legal responses to victims/survivors CRSV and CBW
- Inheritance rights guaranteed for victims/survivors & CBW
- Adequate legal support and representation available for victims/survivors and CBW
- Barriers to women's access to the justice system identified and tackled
- Transitional justice mechanisms pay specific attention and have specific initiatives on CRSV and CBW

PSYCHOSOCIAL

- Services to address psychological and mental health needs of victims/survivors and CBR available
- Interventions that promote the economic and social empowerment of victims/survivors available


B. Actions responding to the needs of victims/survivors and their children should meet a balance of their practical and strategic needs. These should be mapped onto the multi-level approach to address the needs of victims/survivors of gender-based violence:

- **Macro-Level (structural):** Laws and policies are in place to advance approaches to the specific needs of victims/survivors of CRSV and their children. For example, laws on addressing gender-based violence are in place.
- **Meso-Level (systems):** The state systems and services should respond to the needs of victims/survivors of CRSV and their children. For example, policing, health and legal systems have the necessary trained staff and operating procedures in place.
- **Micro-Level (individual):** Individual women and girls and their children and wider communities receive support and services to address their needs (e.g. access to services is ensured, and behavior change programmes to change negative attitudes among the community).

Table 6 sets out examples for actions on a multi-level approach (this list is not exhaustive, rather indicative of the kinds of actions that could be included within NAPs-WPS):

Table 6. Multi-Level Approach to Meeting the Practical and Strategic Needs of Victims/Survivors of Conflict-related Sexual Violence and their Children

PRACTICAL NEEDS (Short-term and immediate basic needs for day-to-day functioning)	STRATEGIC NEEDS (Longer-term rights-based needs for structural social operation)
MACRO (STRUCTURAL LEVEL)	
Legal	
	Reform of laws discriminating against women and girls; creation of laws addressing gender-based violence
	Reform of discriminatory citizenship and identity laws; creation of laws that allow women to pass on nationality to children
	State pensions are extended to victims/survivors of CRSV and their children
	Legal provisions in place to support children to claim identity rights
	Establish reparations programmes tailored to the needs of victims/survivors of CRSV and their children
	Transitional justice mechanisms (e.g. truth commissions) respond to CRSV
MESO (SYSTEMS LEVEL)	
Protection	
Basic policing protections afforded to victims/ services of CRSV and their children	Specific trained officers and units available to respond to victims/survivors of CRSV and their children
	Standard operating procedures adopted on support to victims/survivors of CRSV and their children
Health, emotional and sexual	
Provision of basic reproductive health services; clinical management of rape services, fistula surgeries	Provision of reproductive health services (general reproductive health, abortion services, family planning)
Provision of services for PTSD, general trauma and psychosocial care	Forensic services and documentation of cases available

MICRO (INDIVIDUAL LEVEL)	
Social and socio-cultural	
Programmes to promote reconciliation, to facilitate reintegration of women and children ostracised from family and community	Undertake awareness-raising and community engagement programmes to change negative attitudes and beliefs towards affected populations e.g. run contextually-relevant dramas aimed at changing attitudes and behaviours towards gender-based violence broadly, the events of the conflict, CRSV and CBW specifically
Basic survival and economic	
Provision of emergency shelter and longer-term solutions to shelter needs of victims/survivors	Pensions schemes are delivered to micro-level communities in ways sensitive to the status of victims/survivors of CRSV and their children
Specific provisions to enable victims/survivors to generate income	Entrepreneurship packages are made specifically available to victims/survivors
	Specific initiatives aimed at promoting women's agricultural productivity included, e.g. agricultural extension services (where this is relevant)
Access to income generation opportunities	Access to sustainable livelihoods and entrepreneurship initiatives
	

- C. Include actions that meet the basic survival and income needs of victims/survivors of CRSV and their children.** This includes those outlined in the table above. Specific actions should also be taken to recognise that the harms many women experienced were part of conflict strategies and women were targeted because of their own or family members' involvement in the conflict. Provision of pensions and reparation for example, should be extended to these women (see Box 13 for women's testimony in this regard).

Box 13. Recognition of conflict-related sexual violence and forced maternity as criteria for veteran status

"My friends and I are going to continue to struggle to remind the government to implement the Reparations and Institute of Memory Act so that we can protect the women who became victims. The government has only paid attention to male victims because they carried weapons. Is the law only on the side of men who carried weapons while us women were used as they wished: detained, tortured, burnt. Is our struggle not counted and valued by the government? We women did not carry weapons like the men, but we women gave our body and soul to defend our country."

Maria de Fatima. Galuh Wandita et al., *Enduring Impunity*, p. 192.

- D. In implementation, specific actions towards victims/survivors and to children should take 'diffuse' approaches in order to minimise stigma (and will be dependent on each context), i.e. CBW are not necessarily singled out but their needs met as part of approaches to women, children and families.** All of the actions should be designed and implemented in ways that pay attention to the particular ways that stigma and status operate in each community/society and respond sensitively in each social context, as well as to the concerns of each family.
- E. Include actions to generate data on victims/survivors of CRSV and their children.** As demonstrated in this paper, there is some data available that could be used to inform and frame the narrative and matrices within the plans. Data generation tailored to policy and programming undertaken in ways that are useful and safe for both victims/survivors and policy makers is required. Attention is required to ethics issues with generation of data (see Box 14 for guidance).

Box 14. Data collection on conflict-related sexual violence

There are risks, as well as benefits, inherent to producing data on CRSV. Critical ethical and safety concerns require attention:

- a thorough risks/benefits analysis should inform any decision to undertake research (risks associated with victims/survivors' participation in research; benefits to victims/survivors and wider policy approaches);
- a thorough review of existing data should be undertaken to prevent un-necessary or repetitive collection of data;
- safety of respondents and of research teams should inform all aspects of research design and data collection;
- measures should be taken to ensure privacy and confidentiality of respondents and the resulting data;
- data collectors should be selected appropriate to research purpose, design and skill set, for example, skilled female interviewers for female respondents, attention to ethnicity of researcher if ethnicity has been politicised in that context;
- data collectors should be fully trained in techniques specific to data collection on CRSV;
- research design should include provision of services for respondents; and
- technical and emotional support should be made available to data collectors before, during and after data collection phase.

Once data has been produced, there is a responsibility to ensure that data is interpreted ethically, stored safely and findings are properly made use of to advance approaches to victims/survivors themselves.

7.2. APPROACHES TO NATIONAL ACTION PLANS ON WOMEN, PEACE AND SECURITY DESIGN AND IMPLEMENTATION

F. Match NAP-WPS narratives with action matrices.

- Descriptive accounts and analysis of women and girl's experiences of CRSV must translate into corresponding actions. For example, in the Timor-Leste NAP-WPS matrix, "victims of sexual violence" are mentioned only once, even though the narrative offers extensive consideration of women's experiences of CRSV.

- Specificity is required, i.e. broader actions cannot be assumed to 'capture' victims/survivors of CRSV; specific actions nominated to that population are required. In the Nepal NAP, there is reference to women who are pregnant, such as former combatants, but no specific actions to address their needs, nor the children. The actions within the plans must respond to these realities.

G. Enhance specificity of NAPs-WPS:

- *In the articulation of the action and outcome in the NAP document:* Vague statements about "advocating for" women's rights or for provision of services, set out the act of advocacy as the goal, not the actual achievement of rights or the provision of services. This is a state action plan. States have responsibilities under international frameworks and human rights law to provide services for victims/survivors. Thereby a state plan can and should state the intended action as a result, for example, "provision of psychosocial counseling through all health centers nationally."
- *In nominating action specifically for victims/survivors and their children:* The tension between providing services in ways that maintain confidentiality for this population, but at the same time ensuring that they are captured within programming, can be set out within the NAP. The action and result can be framed as broadly addressing the needs of women and girls, but then specific indicators could ensure that these initiatives address this specific population. For example, the Timor-Leste NAP has the following action:

Output: 4.1. Women have access to natural resources – including land, clean water and other basic needs – to allow them to build sustainable livelihoods and contribute to a stable and peaceful society.

Action: 4.1.1. Conduct monitoring of basic infrastructure development to provide benefits to communities, particularly women.

Indicator: # and % female and male veterans' homes that have been built where they live; # and % of communities including female-headed households in rural areas with access to basic infrastructure facilities; # and % of women and men, and girls and boys with access to health facilities.

The second indicator referred to female-headed households and the need for attention to them. This may capture many women who are victims/survivors with children. However, a further indicator with a target to follow-up with women who have reported experiences of CRSV, or work with women's organisations that provide services to such women, would ensure that this specific demographic and their children receive support for their basic infrastructure and health needs.

- #### H. Balance is required in multi-sectoral response measures in providing for the past, as well as addressing current experiences of violence.
- Victims/survivors require multi-sectoral services for the enduring impacts of conflict-time violence (e.g. reproductive health care). Some of these women will also experience ongoing forms of violence, and services must meet those needs also. Justice-response measures are particularly important in respect of balance. The focus on conflict-time transitional justice is important. However, that should not subsume attention to the need for legal redress for current experiences of violence.

- I. Careful attention is required to how the action is articulated so that it focuses on an outcome for victims/survivors and CBR.** In the Philippine NAP, actions and services for victims/survivors of CRSV are embedded in actions and indicators, but in places, not entirely the actual focus of the action.
- For example, the following action point focuses on monitoring, but the indicators are about services. If this was the other way around, i.e. the action focused on improved services for victims/survivors, then the implementation, monitoring and evaluation and attributed funding would be focused on the 'services' rather than on undertaking monitoring activities:
Action Point 8: Continuously monitor and document the impacts of armed conflict on women.
Result Statement 8.1: Policies, programmes and services for women and girls in armed conflict are continuously enhanced and made more effective from timely monitoring, documentation and reporting on armed conflict-related cases involving women and girls.
Indicators: 8.1.1. Baseline data and information needed for monitoring and documenting of impacts of armed conflict are identified; **8.1.2.** Number of comprehensive research studies on the impacts of armed conflict on women and girls; **8.1.3.** Regularity of monitoring reports submitted to relevant government agencies such as CHR and armed conflict parties; **8.1.4.** Presence of accurate, comprehensive, inter-operable and accessible web-based sex-disaggregated database on armed conflict maintained and updated by national security agencies and welfare agencies.
- J. Budgets with allocations of funding for actions responding to CRSV and CBW are required in all action plans.**
- K. NAPs-WPS should draw from states parties' obligations under CEDAW and concurrently implement CEDAW and the WPS through the action plans.** Strengthened human rights accountability and broader concepts of gender-based violence are available through CEDAW, which would enhance the efficacy of the NAPs-WPS in meeting the needs of victims/survivors and their children.
- L. Congruence is required between the NAP-WPS and other state policies on gender-based violence and women's rights.** For example, the Nepal NAP-WPS locates its national positioning in respect to other frameworks in that context. A list of national policies and plans are referenced, including a 'National Plan of Action Against Gender-Based Violence.' As described in the NAP-WPS, that plan hosts a range of actions that are akin to providing multi-sectoral services to victims/survivors. Two separate plans addressing this issue can complement or create tensions between actors and create competition for budgets (depending on how this is arranged). It can also reflect the different constituencies of civil society: one focused on conflict-related issues and the other on broader development issues. Designing comprehensive policy responses to CRSV requires situating that within broader approaches to gender inequality and to endemic gender-based violence existing before and after the conflict. How these two plans intersect, and where and how the provisions under one work with and to the provisions under the other, to promote a joined-up comprehensive approach to gender-based violence within and outside of conflict requires consideration.

Further Reading and Guidance

The following resources will be useful to guide the development of actions to address the needs of victims/survivors of CRSV and their children:

Children born of war:

- Kai Grieg, The War Children of the World. War and Children Identity Project (2001).
- Charli Carpenter et al, Protecting children born of sexual violence and exploitation in conflict zones: existing practice and knowledge gaps, University of Pittsburgh (2005).

Data collection on CRSV:

- United Nations World Health Organisation, Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies, United Nations (2007).
- United Nations General Assembly, In-depth study on all forms of violence against women: Report of the Secretary-General, United Nations (2006).

Implementing CEDAW and WPS:

- Catherine O'Rourke and Aisling Swaine, Guidebook on CEDAW General Recommendation No. 30 and the UN Security Council Resolutions on Women, Peace and Security, UN Women (2015).

Development of NAPs in response to needs and wellbeing:

- Aisling Swaine, Making Women's and Girl's Needs, Well-being and Rights Central to National Action Plans in the Asia-Pacific Region, for a Symposium on National Action Plans in the Asia-Pacific Region, UN Women (2016).

Understanding of and policy approaches to CRSV

- UN Action, Analytical and Conceptual Framing of Conflict-related Sexual Violence, United Nations (June 2011).
- United Nations, Guidance Note of the Secretary-General: Reparations for Conflict-related Sexual Violence, United Nations (June 2014).
- United Nations Department of Peacekeeping Operations, Review of the Sexual Violence Elements of the Judgments of the International Criminal Tribunal for the Former Yugoslavia, The International Criminal Tribunal For Rwanda, and The Special Court For Sierra Leone in the light of Security Council Resolution 1820, United Nations (2010).
- United Nations Inter-Agency Standing Committee, Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery, United Nations (2015).

ANNEX

CONFLICT-RELATED SEXUAL VIOLENCE IN INDONESIA, NEPAL, THE PHILIPPINES AND TIMOR-LESTE

Women and girls have invariably experienced a range of conflict-related sexual violence (CRSV), resulting from political violence in the contexts of Indonesia, Nepal, Philippines and Timor-Leste. A brief overview of these four contexts is outlined here to provide depth and background to the discussion in the main paper. Note that the data and examples of women's experiences of violence included here reflect the availability of secondary data, rather than reflecting the entirety or reality of women's experiences in each context. There is limited data on CRSV available for each context. More is available for Timor-Leste because of the research undertaken in that context for the report of the Commission for Reception Truth and Reconciliation. In an effort to demonstrate the full array of experiences of CRSV and its impact, direct quotes from women and girls that have experienced CRSV are interspersed through the text which are taken from cited research documents.

1. INDONESIA

Indonesia's history of political violence extends across its archipelago and back to its founding as a state of diverse and multiple peoples. The specific focus here is on the sites of Papua and Aceh. It is noted that there are incidents of CRSV in additional political events in Indonesia that also deserve attention. This includes the Jakarta riots of 1998, wherein women of Chinese-Indonesia ethnicity were specifically targeted for sexual assault, including gang rape and public display of their raped bodies,¹ and the purge of 1965-66, from which victims/survivors of CRSV continue to live with the wounds of their experiences today.²

Papua

Political violence has occurred in Papua since 1969, with little reprieve since its autonomy through the partition of Papua and West Papua in 2001. Women have been victims of torture, displacement, killing and broad forms of sexual violence.³ Torture in detention by state forces included forced striping and nudity, mutilation of sexual organs and rape.⁴

Women were systematically and randomly targeted for sexual violence – from being held in detention and sexually assaulted, to being captured in public, to soldiers entering women's homes and raping them (see box 1).⁵ Women were also subject to repeated rape by rotating groups of soldiers in their communities, with some women bearing up to five children as a result of these

"My hope is that this experience is not repeated against women in general, especially Papuan women. It is enough that we were born to be butchered and killed like animals. We are not strong enough to bear children who face the same fate."

TR, Papua. Taken from: Galuh Wandita et al., *Enduring Impunity*, pp. 94-95.

1 Rudiah Primariantari, "Women, Violence, and Gang Rape in Indonesia," 7 *Cardozo Journal of International and Comparative Law*, 1999: 245-276; "Gendered Visibilities and the Dream of Transparency: The Chinese-Indonesian Rape Debate in Post-Suharto Indonesia," 16, 3, *Gender and History*, (2004).

2 Galuh Wandita et al., *Enduring Impunity: Women Surviving Atrocities in the Absence of Justice*, Asia Justice and Rights (2015).

3 *Enduring Impunity*, p. 25.

4 *Enduring Impunity*. See for example pp. 94-95.

5 See generally: *Enough is Enough! Testimonies of Papuan Women Victims of Violence and Human Rights Violations 1963-2009*, Documentation Working Group on Violence and Human Rights Violations Against Papuan Women, 2009-2010.

rapes, and others raped on a repeated basis from as young as ten years of age.⁶ Women who were pregnant were tortured, electrocuted and in some cases also subjected to sexual assault. Many who experienced sexual violence, particularly those who became pregnant as a result of rape, were divorced by their husbands.⁷

Currently, Papua has one of the highest rates of reported domestic violence within Indonesia.⁸ Women's experiences of violence following the agreement, include physical beatings (most common), rape within marriage, being forced by a spouse to have sex with others in exchange for goods, forced contraception and other forms of physical and sexual abuse and harassment. Under customary practices, women and girls who are raped may be compelled to marry the perpetrator.⁹

I was cooking at home to eat, because at that time my old mother had gone to Jayapura. At night the army picked up all the girls. One soldier entered my house. When he saw I was alone, he immediately forced me to take off my clothes, if not, I would be shot dead . . . He used a bayonet to rip my clothes and I was raped. Since then, that soldier always came and asked me to serve him until I got pregnant and had a daughter. But when this child was born she died immediately.

Taken from: Enough is Enough! Testimonies of Papuan Women Victims of Violence and Human Rights Violations 1963-2009, Documentation Working Group on Violence and Human Rights Violations Against Papuan Women, 2009-2010.

Aceh

Between the 1976 declaration of independence by Aceh's leaders and the peace agreement in 2005, the region has been engulfed in political violence due to clashes between the Indonesian military and armed groups. Women were subjected to torture, electrocution, killings and sexual violence, and many were violated in proxy for absent men and/or to give information to soldiers about missing husbands.¹⁰ Women have described experiences of detention and interrogation by state forces that involved multiple abuses including: groping; sexual assault; sexual threats and sexual harassment; rape, including the insertion of instruments such as guns into their vaginas;

"My husband was frequently tortured; he had melted plastic dripped on his skin and was hit with a gun. Now he is often angry and unpredictable... I'm frequently beaten and only after he's hit me is he aware of what he's done. Maybe it's due to the torture and beating he received during the conflict period."

Saudah, Aceh. Taken from: Galuh Wandita et al., *Enduring Impunity*, pp.107-8. *Enduring Impunity*, pp. 94-95.

forced stripping and nudity; being forced to "entertain" soldiers such as dancing; being put through mock weddings.¹¹ Women who were pregnant were threatened with death and/or death for their unborn children.¹²

Women in this context who were detained were faced with difficult choices over care for their existing children. Some had to bring children with them into detention, and those children were then subjected to violence and/or witnessed the violation of their mothers. Some children were killed intentionally or as a consequence of

association with them, some women denied and lost longer-term parental ownership of their own children as a means to protect them.

⁶ *Enough is Enough!* See pp. 21-22.

⁷ See generally: *Enough is Enough*.

⁸ *Enough is Enough!* pp. 38-39.

⁹ *Enough is Enough!* pp. 38-49.

¹⁰ *Enduring Impunity*. See generally, and p. 26.

¹¹ *Enduring Impunity*. See generally Chapter 8, Aceh: An Unsettled Peace.

¹² *Enduring Impunity*. See generally p. 110.

Saidah in Aceh was forced to deny motherhood of her child in order to protect her from the risk of violent assault. This had direct consequences for her relationship with that child who was raised by her sister. Her daughter has noted:

"I was so mad when I found out that Saidah was my biological mother. Can you imagine? From the time I was small I thought my mother was my auntie. I only found out once I was grown and the conflict was over. I was angry and sad that my mother would have the heart to deny me as her own. I asked my mother but she was just quiet, she didn't want to answer me and just said, "What is important now is that you know." I only found out the reasons a few months ago, why my mother denied I was hers, because she wanted to protect me from being taken by soldiers and subjected to terrible things. ... I feel guilty that I expected my mother to be really strong for me when everything she did was so I would be safe."

Saidah, Aceh: Galuh Wandita et al., *Enduring Impunity*, pp. 119-123.

2. NEPAL

During the 1996-2006 'People's War' in Nepal, women and girls experienced sexual violence as a result of the actions of state and non-state (Maoist) actors involved in the conflict. Women were subject to sexual assault, including gang rape, strip searching and various forms of sexual harassment, including sexual torture, by state security forces while in police custody and detention, and during search operations and patrols. Women were attacked while out doing daily chores or were taken from their homes and raped in nearby locations. The pretext for these attacks was often investigation of the women's alleged or assumed involvement with or support for the Maoist rebels. Rape was considered a "common practice" by state forces.¹³ Women were also captured and forcibly recruited into Maoist factions and some experienced rape, often by multiple assailants.¹⁴ Maoist factions also accused women of spying for state forces and rape was a form of retaliation.¹⁵ Research in 2008 with 498 girls and women, aged 11-74 years, found that 18 percent had experienced some form of sexual violence from non-family

If I had not joined the Maoist party, I would not have suffered rape nor would I have given birth to a child before marriage. I have a daughter but I never became a wife. I cannot call anyone my husband. I have been alienated from life. My life is incomplete. It is so long. I wonder how to live it. I have put a huge burden on to my parents. If there is anything hopeful, it is my daughter and I have been living my life smiling with her.

Advocacy Forum and International Centre for Transitional Justice, *Across The Lines: The impacts of Nepal's Conflict on Women* (2010), p. 35.

¹³ Human Rights Watch. *Silenced and Forgotten: Survivors of Nepal's Conflict-Era Sexual Violence*, 2014; UN Office of the High Commissioner for Human Rights (OHCHR). *Nepal Conflict Report: An analysis of conflict-related violations of international human rights law and international humanitarian law between February 1996 and 21 November 2006* (2012), p. 172 citing: Advocacy Forum and International Centre for Transitional Justice, *Across The Lines: The impacts of Nepal's Conflict on Women* (2010).

¹⁴ See generally: *Silenced and Forgotten*.

¹⁵ *Across The Lines: The impacts of Nepal's Conflict on Women*.

members.¹⁶ There appears to have been little documentation of CRSV during and after the conflict. Reporting of CRSV posing risks of stigma, shame and re-traumatisation, as well as retaliation by armed actors.¹⁷

Women were subject to what is referred to as “false marriages,” where men used false identities to secure marriage and then abandoned women when pregnant.¹⁸ “Conflict wives” were also common, whereby state security forces would partner with women while stationed in their locale, but then abandon them upon military rotation.¹⁹ Evidence of forced sex work has also been found. The practice of child marriage also increased, estimated to be a coping strategy of families wishing to protect girls from rape.²⁰ Women who experienced rape were also married quickly to older men or to the rapists.²¹

It was the third day after the Mangalsen attack. Around 300 army personnel had come to our village following the incident. That day, I was on my way back home along with other women from the forest. It was around 3.30 in the afternoon. We were carrying firewood. We were stopped by the soldiers on the way. They were around 30 of them; they were in uniform and carrying big guns. The soldiers started asking me about the whereabouts of my brother. When I said that he was in India for work, they got furious and thrashed me. They pulled my hair and alleged that my family and I were Maoists and we supported their activities. They beat me with the butts of their gun and questioned me repeatedly about my affiliation with the Maoists and threatened me to get ready to bear the consequences of being a Maoist. Then they dragged me to a bamboo bush and five of them took turns and raped me violently. They left me there to die. I fell unconscious I don't remember for how long. When I regained sense, my legs were hurting badly because the soldiers were so violent. I was also bleeding and experiencing severe vaginal pains. Later on, I heard that other women who were with me were also raped at the same time.

Advocacy Forum and International Centre for Transitional Justice, *Across The Lines: The impacts of Nepal's Conflict on Women* (2010), pp. 49-50

Women with children that resulted from CRSV experience social stigma, lack of justice for these experiences, intimidation by perpetrators and enduring physical injuries and ailments due to violent and multiple rape. For many, they are unable to pay for the costs of medical care or care for children resulting from these experiences.²² These effects are entrenched by socio-cultural norms that attach individual and collective identities to purist ideals of sexuality and women's honor.²³ There is ridicule and stigma attached to pregnancy outside of marriage, with women in these situations facing critical social and economic marginalisation and isolation.²⁴ For some however, family and

16 UNIFEM & SAATHI, *Sexual and Gender Based Violence during Conflict and Transitional Period: Jhapa and Morang Districts: A Research* (2008).

17 *Nepal Conflict Report*.

18 Himalayan Human Rights Monitors. *Shadow Report on Nepal: Sexual Violence Against Women During Armed Conflict*, Submitted to United Nations Committee on the Elimination of Discrimination against Women, (2011) p. 9.

19 *Across The Lines: The impacts of Nepal's Conflict on Women*.

20 *Across The Lines: The impacts of Nepal's Conflict on Women*, p. 42.

21 *Across the Lines: The Impact of Nepal's Conflict on Women*.

22 Cambodian Defenders Project. *Asia-Pacific Regional Women's Hearing on Gender-Based Violence in Conflict, Report on the Proceedings*, (2012). p. 23; *Shadow Report on Nepal*, p. 8.

23 *Nepal Conflict Report*, pp. 168-170.

24 *Across The Lines: The impacts of Nepal's Conflict on Women*, p. 34.

husbands have understood that they were raped and accepted the children.²⁵ Many women in rural areas are unable to attain formal identity when unmarried, and those with children born of rape are unable to register their children, which denies them citizenship rights going forward.

The Comprehensive Peace Accord commits to providing protection to the rights of women and girls, prohibits violence and child labour, and addresses intersecting discriminations experienced along lines of race, caste and ethnicity.²⁶ Nepal's Constitution also provides for women's rights and equality. There remain multiple layers of discrimination however, particularly for Dalit women, where caste-based discrimination is understood as core to the exigencies of the conflict.²⁷ Women's health and well-being have been detrimentally affected by experiences of CRSV, including impacts on reproductive capacities, with the inability to access appropriate services, common for women during and after the conflict.²⁸ The conflict has exacerbated the economic situation of much of the affected population, entrenching the situation of women who are affected by CRSV and marginalised. Trauma resulting from experiences of CRSV, prevailing fears, suicidal tendencies and distress remain for this population.²⁹ The provision of psycho-social counseling and social support for these women is estimated to be lacking, particularly in rural areas.³⁰ Justice for these crimes remains a gap, with little by way of remedy for addressing women's basic needs and rights.

"The reality can't be extracted from women victimised by conflict. Our social structure and customs forbid women to reveal their shame."

Advocacy Forum and International Centre for Transitional Justice, *Across The Lines: The impacts of Nepal's Conflict on Women* (2010), p. 80.

3. REPUBLIC OF THE PHILIPPINES

The Philippines has experienced several armed conflicts within its territory since its independence in 1946, including a period of martial law from 1972-1981. The conflict in the region of Mindanao, which began in the late-1960s, ended with a 2014 peace agreement, the first globally brokered by a female negotiator.

There is emerging evidence of the sexual violence experienced by women and girls in this region at the hands of security forces. This has included acts such as killings, targeted sexual violence and abuse by soldiers, including sexual slavery and mass rape in conflict-affected area.³¹ Girls

"...between 1972 and 1974, Ilagâ and soldiers alike made Bangsamoro women in Labangan and Ipil, Sibugay, become 'sex slaves' of navy men, whose boat was docked at Labangan and Ipil ports. For more than a week, soldiers rounded up a group of at least ten women from Labangan and forced them to the naval boats to the serve the 'sexual needs' of the navy men. The following day they were released; only to be replaced with another group of women, and so on... more than 200 women were [believed to be] enslaved in this way."

Taken from: Report of the Transitional Justice and Reconciliation Commission, 2016, p. 48.

25 *Across The Lines: The impacts of Nepal's Conflict on Women*, p. 35.

26 *Comprehensive Peace Agreement concluded between the Government of Nepal and the Communist Party of Nepal (Maoist)*. 21 November 2006.

27 *Across The Lines: The impacts of Nepal's Conflict on Women*, pp. 38-39.

28 *Across The Lines: The impacts of Nepal's Conflict on Women*, p. 57.

29 *Across The Lines: The impacts of Nepal's Conflict on Women*, pp. 60-61.

30 *Shadow Report on Nepal*, p. 12.

31 Committee on the Elimination of Discrimination against Women. Concluding observations on the combined seventh and eighth periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8, para 25; Children and armed conflict, Report of the Secretary-General, A/70/836 S/2016/360, 20 April 2016, para 206.

as young as seven years of age were raped by state forces.³² Women experience multiple forms of sexual harm, including mutilation of sexual and reproductive organs, cutting off of breasts, mutilation of reproductive organs and cutting open pregnant women's wombs.³³ Women were also forced to have sex with husbands in front of soldiers, some were abducted and did not return, others who returned and/or survived these assaults live with the stigma. Some women who became pregnant as a result of rape were forced to marry the perpetrators, who often abandoned them later.³⁴ Women with disabilities also experienced abuse.³⁵

We women were not respected. There were instances when women were taken from their homes and raped. There was an incident when a wife was taken by a soldier, was impregnated and returned to her family when she gave birth."

Participant in Transitional Justice and Reconciliation Commission Listening Process. Report of Transitional Justice and Reconciliation Commission, November 2016, p. 47.

Women living in displacement sites are insecure, including lack of secure bathing and dressing sites,³⁶ and increasing levels of domestic violence in camps.³⁷ There is also evidence of trafficking of women living in displacement camps.³⁸

There has been little by way of justice and protection for women in these contexts.³⁹ Many women whose husbands were killed in the conflict have been unable to assume legal ownership of land which they rely upon for livelihoods.⁴⁰

4. DEMOCRATIC REPUBLIC OF TIMOR-LESTE

The report of the Commission for Reception, Truth and Reconciliation (also known as the CAVR), found that women and girls experienced wide-ranging forms of CRSV during the "invasion" of Timor-Leste by Indonesia in 1975, and its subsequent administration and withdrawal following a popular referendum in 1999.⁴¹ The CAVR collected 853 reports of sexualised violence during the conflict, of which rape was the most common (46.1 percent of the total reports or 393 out of 853), followed by sexual harassment and other acts of sexual violence (27.1 percent or 231/853), and sexual slavery (26.8 percent or 229/853). An International Rescue Committee (IRC) study conducted two years after the Indonesian exit, found that one-in-four women had experienced violence by a perpetrator outside of their family during the Indonesian withdrawal and humanitarian crisis in 1999 (92 percent involving a weapon and 95.8 percent involving sexual harassment of some form).⁴² Indonesian forces were found to be responsible for 93 percent of sexual attacks, with Timorese

32 Transitional Justice and Reconciliation Commission, *Report of Transitional Justice and Reconciliation Commission* (2016). p. 48.

33 *Report of Transitional Justice and Reconciliation Commission*, p. 48.

34 *Report of Transitional Justice and Reconciliation Commission*, p. 48.

35 Philippine Alliance of Women with Disabilities, CEDAW 64th session (4-22 July 2016): *Submission by the Philippine Alliance of Women with Disabilities for consideration in the review of the State Party of the Republic of the Philippines*.

36 Leslie Dwyer, Rufa Cagoco-Guiam, *Gender and Conflict in Mindanao*, The Asia Foundation, p. 12.

37 *Gender and Conflict in Mindanao*, p. 16 and 20.

38 Mindanao Migrants Center for Empowering Action Inc. *Women and Conflict: Trafficking in Persons in Internally Displaced People Camps in Mindanao*, Mindanao Migrants Center for Empowering Actions (2011).

39 Committee on the Elimination of Discrimination against Women. Concluding comments of the Committee on the Elimination of Discrimination against Women: Philippines, CEDAW/C/PHI/CO/6, 25 August 2006.

40 *Report of Transitional Justice and Reconciliation Commission*, p. 68.

41 *Chegal! The Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste*, (2006). See Chapter 3, History of the Conflict.

42 Michelle Hynes et al., A Determination of the Prevalence of Gender-Based Violence among Conflict-Affected Populations in Timor Leste, *Disasters* 28, 3 (2004); p. 314.

“The widespread and systematic nature in which members of the Indonesian security forces openly engaged in rape, sexual torture, sexual slavery and other forms of sexual violence throughout the entire period of the invasion and occupation... [T]here was a widely accepted practice for members of the security forces to rape and sexually torture women while on official duty, in military installations and other official buildings. These practices were covered by almost total impunity.”

Report of the Timor-Leste Commission for Reception, Truth and Reconciliation. *Chega! The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)*, 2002, p. 2670.

armed groups to a lesser degree.⁴³ There is also evidence that women bore children as a result of systematic and opportunistic rape, sexual slavery and forced marriages, and experienced forced maternity.⁴⁴

Women were subjected to sexual assault and sustained sexual slavery (by being held in centres such as barracks or hotels turned into detention and torture sites, or attacked in their homes on a regular basis), as well as forced marriages or ‘domestic slavery’,⁴⁵ whereby Indonesian soldiers occupied women’s homes in ‘marital’ arrangements, and in many cases ‘consecutive domestic slavery’ took place, whereby soldiers passed women on to rotating battalions of soldiers.⁴⁶ Women were in these ‘marriages’ over a prolonged period. Some women

were forced to formally marry soldiers.⁴⁷

It is estimated that almost ten percent of Timorese women detained by the Indonesian military and its proxies during the early years of the occupation were raped. Women were forced to entertain and to dance for soldiers, and were subjected to repeated rapes by multiple men.⁴⁸

Many women experienced multiple harms over time. One case detailed in the CAVR report highlighted that: One woman was shot at while farming by Indonesian armed forces, accused of being a member of the *Falintil* armed group, was threatened with being killed on detention by soldiers, was held for three days for interrogation; was forced into sexual slavery with one of the commanders and had a child as a result; after he died, she was then forced into sexual slavery with another soldier and gave birth to a still born baby; she was forced into sexual slavery for a third time with an additional soldier.⁴⁹

Many women had children as a result of these experiences,⁵⁰ including multiple pregnancies.⁵¹ Some women who were detained gave birth in detention and in some cases those babies later died due to lack of food and nutrition for mother and child.⁵² For those in forced marriages, some women became socially and economically dependent on the men, particularly as they and their children were often ostracised by their family and community, entrenching their isolation and dependence

43 *Chega!* Chapter 7 Sexual Violence, p. 23. The CAVR also notes the under-reporting of sexual violence, see p. 109

44 Susan Harris-Rimmer, “Orphans” or Veterans? Justice for Children Born of War in East Timor, *Texas International Law Journal*, 42, 2006: pp. 323-344; Special Rapporteur of the Commission on Violence against Women, its Causes and Consequences, Report on the Joint Mission to East Timor, E/CN.4/1999/68/Add.3, 21 January 1999, para 58.

45 A term used in the *Chega!* report. See Chapter 7, Sexual Violence.

46 *Chega!* See Chapter 7, Sexual Violence, p. 19, 45, and 54.

47 *Enduring Impunity*, pp 168-171.

48 *Chega!* See Chapter 7, Sexual Violence; *Enduring Impunity*, chapter 11.

49 *Chega!* See Chapter 7, Sexual Violence, p. 54.

50 See generally *Chega!* Chapter 7, Sexual Violence; *Report on the Joint Mission to East Timor*, para 58.

51 Louise Williams, Leonie Lamont, “Rape Used Over and Over as a Systematic Torture,” *The Sydney Morning Herald*, 13 September 1999.

52 *Enduring Impunity*, p. 176.

on the perpetrator.⁵³ There is some evidence of unsafe abortion during this time, including death as a result of abortion. In some cases, women were forced to attempt unsafe abortions by those who had raped them.⁵⁴ There is also evidence of children being given for adoption.⁵⁵ Women

For some women in Timor-Leste, their subjection to rape and forced maternity were understood by family members:

"In 1985, when my husband returned from exile, I told him about [the sexual violations which I experienced including the fact that I had a child.] He said he continued to accept me as his wife. He said that it is not my desire, but it is a consequence of war."

For others however, the experience elicited shame and isolation from family and community. One women was *"raped by a number of ABRI members [Indonesian Armed Forces]. She had children from different fathers. The victim experienced discrimination and ridicule from her community. She was called names and isolated from her community. They called her "feto puta", or whore, who had sold herself to ABRI. The victim could not accept her own children, she could not look at their faces because of the pressure from her community."*

Taken from: *Chega! The Report of the Timor-Leste Commission for Reception, Truth and Reconciliation in Timor-Leste*, (2006). Chapter 7, Sexual Violence, pp. 100 and 103.

themselves have described being "abandoned" by soldiers and then being solely responsible for those children.⁵⁶ Women had variable experiences of being abandoned and accepted by returning husbands.⁵⁷ There are no definitive statistics on the numbers of CBR.⁵⁸

In the post-conflict context, domestic violence remains a critical issue for many women. It was observed by the CAVR that victims/survivors of conflict-time violence were now also experiencing domestic violence in their homes. Male survivors of detention and torture admitted they had "fallen into a pattern of violent behavior."⁵⁹

⁵³ *Chega!* See Chapter 7, Sexual Violence, p. 46.

⁵⁴ *Chega!* See Chapter 7, Sexual Violence, p. 95-97.

⁵⁵ "Orphans" or Veterans?

⁵⁶ *Chega!* See Chapter 7, Sexual Violence, p. 49.

⁵⁷ *Chega!* See generally Chapter 7, Sexual Violence, and p. 103.

⁵⁸ "Orphans" or Veterans?

⁵⁹ *Chega!* See Chapter 7, Sexual Violence, p. 12.



2

**Practical, cultural and political roadblocks:
A way forward for
addressing the needs
of conflict-related
sexual violence
victims/survivors and
their children**

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ACRONYMS AND ABBREVIATIONS

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRSV	Conflict-related sexual violence
CSO	Civil society organisation
EVAW	Ending violence against women
IDP	Internally displaced person
NAPs-WPS	National Action Plans on Women, Peace and Security
NGO	Non-governmental organisations
PSVI	Preventing Sexual Violence in Conflict Initiative
SGBV	Sexual and gender-based violence
SMSG-SVC	Secretary-General on Sexual Violence in Conflict
UNSCR 1325	United Nations Security Council Resolution 1325
WPS	Women, Peace and Security

INTRODUCTION

Sexual violence is a widespread characteristic of conflict and post-conflict environments globally and within Asia-Pacific. Recognition of sexual and gender based violence (SGBV) in conflict has grown in recent years with national governments, civil society, the United Nations, practitioners and academics increasingly acting to prevent and respond to sexual violence and mainstreaming initiatives across different thematic areas and sectors.¹

Global actors including the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC) work to end impunity for sexual violence by assisting national authorities to strengthen criminal accountability, responsiveness to survivors, and judicial capacity.² The landmark Preventing Sexual Violence in Conflict Initiative (PSVI) of the Government of the United Kingdom focuses on international advocacy efforts that are critical in fighting stigma and monitoring conflict contexts.³ At the national level, National Action Plans on Women, Peace and Security (NAPs-WPS) are a core mechanism – encouraged by the United Nations Secretary-General, and supported by United Nations Security Council Resolutions – for states to implement activities that address conflict related sexual violence (CRSV) through a single framework that harmonises objectives across government.

While these remain vital global and national actions to eliminate sexual violence in conflict, the focus on advocacy measures has meant that often NAPs-WPS and other mechanisms have failed to deliver the practical and strategic responses most needed by survivors of CRSV.⁴ Physical harm including injury and reproductive health problems, and psychological impacts such as depression, anxiety, and self-blame are prevalent. Social impacts including stigma and discrimination can be pervasive in families and communities. These can cause economic effects such as loss of land access and livelihood production, and contribute to poverty.⁵ Even where support services are in existence, survivors may face barriers in accessing them due to unsafe security settings, inability to pay fees and gender norms that discourage survivors from seeking support.⁶ Ensuring access to psycho-social and health services, education, safe housing and land security, economic opportunities and tackling stigma, are critical in meaningfully responding to these impacts.

While pursuing formal justice processes may be the priority of the international community, many survivors seek the fulfilment of their economic rights and prioritise the state's fulfilment of their rights to a decent standard of living above other objectives.⁷ Yet satisfying these rights often

1 UN Action, Mapping the Global Policy Landscape on Conflict-Related Sexual Violence, New York (2016).

2 The other priorities of the SRSG-SVC are: the protection and empowerment of civilians who face sexual violence in conflict, in particular, women and girls who are targeted disproportionately by this crime; to mobilise political ownership by fostering government engagement in developing and implementing strategies to combat sexual violence; to increase recognition of rape as a tactic and consequence of war through awareness-raising activities at the international and country levels; to harmonise the UN's response by leading UN Action Against Sexual Violence in Conflict, a network of focal points from 13 UN agencies that amplify programming and advocacy on this issue in the wider UN agenda; and to emphasise greater national ownership <http://www.un.org/sexualviolenceinconflict/about-us/about-the-office/>.

3 Government of the United Kingdom Foreign & Commonwealth Office and The Right Honourable Baroness Anelay of St Johns DBE, "Baroness Anelay leads international call to end stigma of sexual violence", 23 September 2016, <https://www.gov.uk/government/news/baroness-anelay-leads-international-call-to-end-stigma-of-sexual-violence>.

4 UN Women, Report of the Regional Symposium on National Action Plans on Women, Peace and Security in Asia-Pacific, December 2016, <http://asiapacific.unwomen.org/en/digital-library/publications/2016/12/nap-report>.

5 Asia Justice and Rights, Surviving on their Own: Women's Experiences of War, Peace and Impunity, November 2014.

6 Shteir, S. Australian Civil Military Centre, Conflict-related Sexual and Gender-based Violence: An Introductory Overview to support prevention and response efforts, 1/2014, p43.

7 Asia Justice and Rights, Surviving on their Own: Women's Experiences of War, Peace and Impunity, November 2014.

remains secondary to advocacy efforts and pursuing accountability, resulting in the immediate and mid-term needs of victims/survivors and their children going unmet.⁸

This paper provides an overview of three key obstacles to better addressing victim/survivor needs. These barriers have been identified as areas where policymakers and civil society actors can adopt practical strategies to shift the focus of CRSV response to a more victim-centred approach.⁹ Firstly, the evidence base on which responses to CRSV can be designed must be strengthened through an increased understanding of victim/survivor needs supported by comprehensive research and data on CRSV in the region. Secondly, while stigma is recognised as a global barrier to addressing CRSV, adopting a context-specific approach to the social, cultural and religious obstacles to changing social norms must be prioritised. Thirdly, political commitment to responding to victim/survivor needs at the national level must be strategically built by encouraging engagement in multiple tracks of CRSV response simultaneously. This should not approach the implementation of accountability measures and formal justice processes as a precondition to the delivery of support services.

This paper is intended for the use of government actors, civil society stakeholders, service providers, researchers, conflict-victim representatives and advocates to provide strategic guidance on overcoming the roadblocks to addressing CRSV and adopting approaches that can encourage more victim-centred responses.

It offers suggestions for a way forward that recognises the need to build the internal advocacy of victims/survivors and create survivor-led responses. It concludes with a practical framework for building a strategic and effective national architecture of WPS policies and mechanisms, including NAPs-WPS, that can advance CRSV response and be locally implemented and harmonised with existing laws and policies, in order to deliver practical and meaningful benefits for victims/survivors.

1. CONTEXT-SPECIFIC APPROACHES TO UNDERSTANDING CONFLICT-RELATED SEXUAL VIOLENCE VICTIMS/SURVIVORS AND THEIR CHILDREN

THE CHALLENGE

Understanding the nature and impacts of CRSV is critical to designing and implementing effective responses for victims/survivors. Needed responses include a range of policy, legal and social approaches at the national and international levels to provide delivery of support services, strategies to address stigma, the establishment of judicial mechanisms of accountability, and formal and informal reparations. For each of the varied methods of addressing CRSV a tailored research or data collection process is needed to inform the development of evidence-based responses.

⁸ The term 'victims/survivors' is used to reflect the preferences of those consulted in the development of this paper. It reflects that those who have experienced sexual violence have different preferences for how their identity is reflected and referring to only 'victim' or 'survivor' may exclude those who do not identify within that category.

⁹ UN Women Regional Office for Asia and the Pacific and the Government of the United Kingdom convened a joint Regional Expert Group Meeting (EGM) on: Addressing the needs of conflict-related sexual violence survivors and children born out of rape in National Action Plans on Women, Peace and Security in Asia-Pacific, held in Bangkok, Thailand in January 2017. This paper highlights key themes that emerged from this discussion drawing from the expert contributions on the contexts of the Philippines, Indonesia, Nepal, Myanmar, Sri Lanka and Timor-Leste.

But the lack of adequate data recorded in Asia-Pacific to date highlights that multiple difficulties exist in researching and understanding CRSV.¹⁰ One obstacle to conducting research is the social barriers that create difficulties for victims/survivors in accessing research and data collection processes. A second barrier to understanding the impacts of CRSV is created by practitioners and policymakers applying rigid definitions of CRSV and of who constitutes a victim/survivor that can exclude some individuals and courses of conduct from being recognised in the data and responses.

The social barriers that inhibit many survivors from reporting their experiences include stigma, fear of reprisals, and a lack of confidence in national institutions.¹¹ Fear that they will not benefit from justice options also deters many survivors from reporting. The Global Study on the Implementation of United Nations Security Council Resolution 1325 found that women do not report violence in conflict predominantly because of the lack of easily accessible services or ways to report safely, receive help and be treated with dignity.¹²

Groups in especially vulnerable situations can experience added burdens that render them invisible in the research on CRSV. Women in remote regions without access to non-governmental organizations (NGOs) can be cut off from avenues for reporting. Ethnic minority and Indigenous women may also experience language barriers that inhibit their ability to participate in research if interpreters are not available. Victims/survivors with disabilities can be excluded from access to services or support that can adequately address their needs. For survivors that have been subjected to sexual violence because of their disabilities, this exclusion compounds their vulnerable situation.

Internally Displaced Persons (IDPs) and refugees are often susceptible to ongoing sexual violence. In **Myanmar**, the fragile security situation exposes women to threats of sexual violence.¹³ Sexual violence committed within IDP evacuation centres may be difficult to report due to limited resources, and the intimidation of continuing to live alongside the perpetrator.

The inhibitors to reporting may be even greater when researching children born of rape in conflict. While documentation of the experiences and needs of these children and their mothers is growing in some post-conflict contexts,¹⁴ in Asia-Pacific there has been minimal research conducted on their situation. Developing specialised skills and allocating resources to identifying children born of rape, who addresses their interests, and what their needs are, has been identified as a priority theme for research on sexual violence in conflict and post-conflict settings.¹⁵

Several other challenges in engaging with and better understanding victims/survivors stem from research and data collection practices that apply a limited definition or approach to concepts surrounding CRSV. One example of this is data collection practices for State records that categorise individuals into a single category of identity and may fail to identify CRSV victims/survivors. Official records may classify conflict-affected women in categories such as female combatants, female heads of households, or military widows. The fact these women may also have experienced sexual violence during the conflict can remain overlooked.

10 Davies, S. and True, J. Dispelling 5 Myths about Sexual Violence in Conflict: How can we do better with data on Asia-Pacific?, Spotlight on R2P, June 2014, <https://r2pasiapacific.org/filething/get/1425/Spotlight-SD-JT-Issue-9-June-2014.pdf>.

11 SC/2016/361, Report of the Secretary-General on conflict-related sexual violence, 20 April 2016.

12 UN Women, Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of United Nations Security Council Resolution 1325, (Global Study on UNSCR 1325), 2015.

13 Asia Justice and Rights, *Surviving on their Own: Women's Experiences of War, Peace and Impunity*, November 2014

14 See for example: ICTJ: From Rejection to Redress: Overcoming Legacies of Conflict-Related Sexual Violence in Northern Uganda, October 2015, <https://www.ictj.org/publication/rejection-redress-overcoming-legacies-conflict-sexualviolence-northern-uganda>; Human Rights Watch: I don't think her heart will ever like this baby: Protecting children of rape, the invisible victims of conflict and political violence, 14 February 2017, <https://www.hrw.org/news/2017/02/14/i-dont-think-her-heart-will-ever-baby>.

15 WHO and SVRI: A research agenda for sexual violence in humanitarian, conflict and post-conflict settings (2013).

Another difficulty in understanding the impact of CRSV in local contexts is that definitions of CRSV used for different purposes may cover only limited forms of conduct that can exclude some victims from its scope. For example, national judicial and truth-seeking mechanisms may use the acts of sexual violence that amount to a crime against humanity in the Rome Statute of the International Criminal Court within their own mandates of investigation. This lists “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” as prohibited acts. The United Nations Secretary-General identifies a wider range of conduct as expressly amounting to CRSV, listing “forced abortion, forced marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys” in addition to the acts specified in the Rome Statute.¹⁶

However, if these definitions were to be adopted in a national context it is unclear whether this scope of conduct would encompass other forms of sexual violence that may be features of the conflict environment. In particular, if the qualification that sexual violence must be of ‘comparable gravity’ to the expressly defined violations is applied, forms of sexual violence that are prevalent within specific conflict contexts could be excluded on the basis that they are not equally as severe. This includes forms of SGBV, such as family violence and intimate partner violence. Conflict and post-conflict environments are often characterised by high levels of domestic violence exacerbated by weakened social structures and the normalisation of violence. In **Papua, Indonesia** this link has been observed as ‘layered violence’ where victims of violence later become subject to domestic violence.¹⁷ If the definition of CRSV applied by national judicial bodies does not include such conduct, acts committed within the private sphere may be systematically excluded. Other forms of sexual violence that could be excluded at the national level include acts such as sexual harassment at military checkpoints. In addition, practices including early marriage and early-cohabitation have been prevalent in conflict contexts including in **the Philippines** but may need to be specifically included within the scope of investigation.¹⁸ Forcing family and community members to witness the commission of rape is a common feature of CRSV where armed actors intend to destroy the social fabric and cause widespread humiliation. This ‘forced witnessing’ may be another form of sexual assault that might not be accounted for in some definitions of CRSV. Ensuring that the definition of CRSV used for legal purposes is reflective of the realities of the conflict is vital. This is because the formal findings of a judicial forum may be used to determine who is considered to be a victim/survivor that is eligible for reparations, or may inform programmatic responses delivered by government.

Understanding of what constitutes CRSV for legal, policy and social research and investigation purposes can also be restricted by adopting a limited approach to the temporal, geographic or causal link an act of sexual violence has to the conflict. While guiding principles may assist in establishing the parameters of what conduct will be sufficiently ‘linked’ to the conflict,¹⁹ difficulties can arise in determining when a conflict or post-conflict period is understood to have ‘ended’ or whether sexual violence occurring in a specific location is or is not linked to a conflict context.

¹⁶ SC/2016/361, Report of the Secretary-General on conflict related sexual violence 2016.

¹⁷ ICTJ, the Women Commission and the Women Working Group of Papuan People Assembly, *Enough is Enough! Testimonies of Papuan Women Victims of Violence and Human Rights Violations 1963-2009* (2012), https://www.ictj.org/sites/default/files/ICTJ-IDN-Enough-Women_Papua-Report-2010.pdf.

¹⁸ Report of the Transitional Justice and Reconciliation Commission, 2016, http://www.tjrc.ph/skin/vii_tjrc/pdfs/report.pdf.

¹⁹ SC/2016/361, Report of the Secretary-General on conflict-related sexual violence 2016: “This link with conflict may be evident in the profile of the perpetrator (often affiliated with a State or non-State armed group), the profile of the victim (who is frequently a member of a persecuted political, ethnic or religious minority), the climate of impunity (which is generally associated with State collapse), cross-border consequences (such as displacement or trafficking in persons) and/or violations of the terms of a ceasefire agreement”.

Whether data collection and research of CRSV is being undertaken for judicial or truth-seeking purposes, or to inform the development of laws, policies and programmes, its scope should respond to local conflict-dynamics. This can help to ensure that acts of sexual violence and categories of victims/survivors and their children are not excluded.

A WAY FORWARD

The Global Summit to End Sexual Violence in Conflict 2014 highlighted that not only must comprehensive data be collected, but strong co-ordination and harmonisation between agencies and local organisations is needed to ensure integrated data, whether collected for criminal investigation purposes, informing programming, or contributing to other research objectives.²⁰ This co-ordinated approach should guide research initiatives to better identify victims/survivors in order to understand and respond to their needs. Recording the experiences of survivors can also build testimony in judicial and truth-telling proceedings, and be used by governments to fulfil their international obligations to document violations.²¹

Whatever the purpose, research projects should adopt an approach that does not treat victims/survivors as simply providers of evidence, but create a forum for testifying intended to increase their resilience. Research approaches should ensure that individuals, families and communities are engaged in a way that maximises their access to justice and minimises any negative impact the documentation process may have on them.²² To guarantee a 'do no harm' approach, researchers must ensure that the benefits to respondents or communities of documenting sexual violence are greater than the risks to them. Survivors must also have access to basic care and support before disclosing information about their experiences of sexual violence.²³

The safety and security of those disclosing information must be protected, and the confidentiality of their identities must remain secure. It is also paramount that the risks to survivors for participating in the research are appropriately assessed to determine whether it should be conducted. The potential for retaliation against participants by alleged perpetrators or their communities, re-traumatisation, exacerbation of stigma and social isolation, or loss of access to livelihoods are some of the potential risks research participants may face if their cooperation and their experience is not kept confidential. De-identified testimonials and conducting interviews in secure locations are methods of mitigating the risk of breached confidentiality. Researchers must question what benefits participants receive from engaging with them. Re-testifying numerous times to researchers can re-traumatise participants, while not seeing any positive results eventuate that impact their lives. It is also vital that those engaged in CRSV research receive specialised training to ensure that they are able to conduct data collection ethically and sensitively, including specific measures for research involving children. In **Sri Lanka**, the number of victims of CRSV reported during and after the conflict and whether they are also female heads of households, single women, IPD women, war widows or former combatants is sought as priority data with its collection to be accompanied by steps "to ensure gender-sensitive procedural safeguards so as to avert re-victimization".²⁴

20 Summit Report: The Global Summit to End Sexual Violence in Conflict, London (2014), p.20. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/390742/PSVI_post_summit_report_Online2.pdf

21 S/RES/1888 (2009).

22 Government of United Kingdom, International Protocol on the Documentation and Investigation of Sexual Violence in Conflict (2014): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319054/PSVI_protocol_web.pdf

23 WHO Ethical and Safety Recommendations for researching, documenting and monitoring sexual violence in emergencies (2007): http://www.who.int/gender/documents/OMS_Ethics&Safety10Aug07.pdf

24 CEDAW/C/LKA/Q/8, CEDAW Committee List of issues and questions in relation to the eighth periodic report of Sri Lanka, 29

Research approaches must also recognise that a lack of trust from victims/survivors that their needs will be met operates as a deterrent to reporting and reinforces their silence. Other existing challenges such as stigma compound this silence and must be addressed simultaneously to shift the conditions that cause survivors not to be engaged with. Where support mechanisms such as GBV crisis hotlines, community-based care, and confidential and accessible trauma and multi-sectoral services are made available, reporting of survivors increases.²⁵ This highlights that while data is needed to build well-informed response services, failing to establish services before data is collected can reinforce the conditions that make survivors reluctant to report.

To improve understanding and better respond to the needs of conflict-related sexual violence victims/survivors and their children:

- Recognise the diverse identities that victims/survivors have, and that the vulnerable situations they are placed in may be compounded by multiple categories of identity;
- Adopt a context-specific approach to the scope of CRSV being investigated or researched, and design approaches inclusive of those impacted to ensure research meets their needs and advances objectives that they will benefit from;
- Implement ethical and specialised research approaches, that prioritise the safety, security and confidentiality of participants;
- Do not delay the establishment of basic care and physical and psycho-social services until all data has been collected, as multiple tracks of engaging with victims/survivors can be progressed simultaneously and the availability of support mechanisms increases reporting rates.

July 2016.



25 SC/2016/361, Report of the Secretary-General on conflict-related sexual violence, 20 April 2016.

2. UNDERSTANDING SOCIAL, CULTURAL AND RELIGIOUS DISCRIMINATION TOWARDS VICTIMS/SURVIVORS AND PROMOTING COMMUNITY-LED ACTION

THE CHALLENGE

A fundamental barrier to engaging with victims/survivors is that the stigmatisation of sexual violence contributes to violations remaining unreported. This stigma is largely a product of social attitudes that blame the victim-survivor for the violation and suggest they have given the perpetrator cause to sexually assault them. Stigma also draws from cultural norms attached to women's and men's sexual behaviour, in which women's virtue is associated with their sexual purity. In the context of conflict and post-conflict settings, the stigma of having experienced sexual violence can be enhanced by the stain of having been associated with armed actors. As a result, survivors of sexual violence often prefer to maintain silence rather than report the violation. For women and girls, this commonly reflects a fear of being blamed as responsible for the offending. Men and boys often remain silent for fear of being labelled as weak, or perceived as emasculated.²⁶

The commission of CRSV is often driven by a motivation to disrupt social cohesion. The stigmatisation of victims/survivors operates as a continuing impact of this intention. In **the Philippines**, sexual violence against women and girls was in many instances intended to destroy 'the moral fabric' of society where women are seen as 'bearers of honour and culture'.²⁷ Tackling the social, cultural and religious factors that perpetuate stigma are a measure of generating community recovery from the impacts of the conflict as a whole.

Addressing stigma through deepened engagement with communities is critical for two primary reasons. Firstly, discrimination experienced by victims/survivors due to stigma in itself limits the ability of survivors to receive full and equal treatment in their societies. Survivors may be subjected to a range of discriminatory and harmful behaviours including social ostracism, rejection by spouses and family members, and loss of marital prospects. They may be expelled from their homes, consigning them to poverty and homelessness. Women have reported being subjected to physical violence by their husbands as punishment for having been raped by combatants.²⁸ In many countries in Asia-Pacific, practices such as ordering marriage between a rapist and victim are routine, as are providing monetary compensations—or 'blood money'—to ensure no process through the formal justice system takes place.²⁹ Secondly, the impact of stigma can result in discrimination from multiple spheres of society and inhibit the access of survivors to healthcare, education, justice and employment opportunities. Service providers may refuse to deliver support to victims/survivors due to social perceptions that cause them to lay blame with the survivor, or believe that sexual violence is a private matter. These cultural and religious beliefs contribute to the silencing of victims/survivors, with many placing the unity of their communities before their own well-being. In **Myanmar**, this is impacted by the Buddhist belief in *karma* that "negative experiences in one's life are considered the result of bad behaviour in previous lives, and as such, are accepted as fate".³⁰

26 Sexual Violence Research Initiative, Briefing Paper: Care and Support of Male Survivors of Conflict-Related Sexual Violence (2016).

27 Report of the Transitional Justice and Reconciliation Commission (2016), http://www.tjrc.ph/skin/vii_tjrc/pdfs/report.pdf.

28 Human Rights Watch, *Silenced and Forgotten: Survivors of Nepal's conflict-era sexual violence*, 23 September 2014, <https://www.hrw.org/report/2014/09/23/silenced-and-forgotten/survivors-nepals-conflict-era-sexual-violence>.

29 See in the case of Myanmar, Women's League of Burma and Asia Justice and Rights, *Access to Justice for Women Survivors of Gender-based violence committed by state actors in Burma*, November 2016.

30 Women's League of Burma and Asia Justice and Rights, *Access to Justice for Women Survivors of Gender-based violence committed by state actors in Burma*, November 2016, p.5.

Victims/survivors may have multiple aspects of their identity that place them in a vulnerable position, making them further stigmatised and compounding their inability to receive support. For men and boys that have suffered sexual violence, social perceptions that they are emasculated and feminised, and fear of being labelled as homosexual, cause many to remain silent about the harm they have suffered.³¹ Women with disabilities, elderly women, LGBTI women, and ethnic or religious minority women are also less likely than other women survivors to disclose abuse due to fear of an increased risk of repercussions.³²

Female ex-combatants that have experienced sexual violence may suffer discrimination on multiple fronts. In **Nepal**, female combatants have been rejected by their families and communities after being raped by fellow combatants and becoming pregnant. They experience multiple sites of marginalisation as a combatant, a victim of sexual violence, and as the mother of a child born out of rape to a combatant.³³

For women that bear children out of rape during conflict, stigma towards both mother and child can have ongoing mental, physical and economic impacts. Mothers raising children born out of rape often live in extreme poverty and are ostracised by their relatives.³⁴ Girls that bear children from rape face additional social, cultural and religious challenges as they may be removed from school, and viewed as no longer in need of care by their communities and families. Children born of rape may experience rejection from their mothers and institutional discrimination that violates their rights across a range of areas. In some circumstances, the inability to establish paternity means that a birth certificate for a child born out of rape cannot be procured.³⁵ This may exacerbate the social and religious stigmatisation already attached to children born out of wedlock in contexts such as **Nepal**, where the absence of a father can mean they are unable to register citizenship.³⁶

A WAY FORWARD

The ubiquitous nature of stigma towards victims/survivors is widely recognised by international organisations and donors as a priority area for action to shift the attitudes that enable discrimination.³⁷ This global commitment must also be met with a deepened understanding of the social, cultural and religious contexts in which this stigma exists. In addition, practical measures for combatting stigma must engage a range of actors and facilitate community-oriented change that builds the internal advocacy of survivors. In some contexts, CRSV has been observed to normalise SGBV even after the conflict itself has ended. It can also destroy social cohesion, and threaten the emotional and economic structures of communities. Community-based interventions to address stigma can mitigate these long-term impacts of CRSV on communities.³⁸

31 ICTJ, *When No One Calls It Rape: Addressing Sexual Violence Against Men and Boys in Transitional Contexts* (2016), https://www.ictj.org/sites/default/files/ICTJ_Report_SexualViolenceMen_2016.pdf.

32 Ward, J. and UN Women, *Violence against Women in Conflict, Post-conflict and Emergency Settings, End VAW Now*, December 2013.

33 ICTJ, *Across the Lines: The Impact of Nepal's Conflict on Women* (2010), <https://www.ictj.org/sites/default/files/ICTJ-Nepal-Across-Lines-2010-English.pdf>.

34 Ward, J. and UN Women, *Violence against Women in Conflict, Post-conflict and Emergency Settings, End VAW Now*, December 2013.

35 Asia Justice and Rights, *Surviving on their Own: Women's Experiences of War, Peace and Impunity*, November 2014.

36 ICTJ, *Across the Lines: The Impact of Nepal's Conflict on Women* (2010).

37 Government of the UK Foreign & Commonwealth Office, *Towards Principles for Global Action: Preventing and Addressing Stigma Associated to Sexual Violence in Conflict*, 22 November 2016, <https://www.wiltonpark.org.uk/wp-content/uploads/WP1508-Towards-Principles-for-Global-Action.pdf>.

38 Jones, N., Cooper, J., Presler-Marshall, E. and Walker, D. *The fallout of rape as a weapon of war: The life-long and intergenerational impacts of sexual violence in conflict*, ODI (2014).

Practical measures to mitigate fear of reprisal and encourage reporting at the local level include awareness raising, behavioural change programmes, school-based interventions, and family education. These educational initiatives may also require building tolerance of different family constructs. For example, in the case of children born of rape, rejection by their mothers may lead to them being raised by grandparents, creating changes to their inheritance rights and family name. Service provision should be designed with the input of victims/survivors and communities to ensure that they are suited to the cultural context. Delivering economic empowerment strategies including livelihood support, skills and vocational training, cash transfers or microfinancing, can reduce stigma by encouraging women's decision-making and raising their social status. However, these must be designed in a way that promotes family and community benefits and does not foster resentment towards the recipient.

Provision of psycho-social support can assist in combatting the impacts of stigma both for survivors and for their families and communities. For male survivors, disclosure to a female service provider, researcher or interpreter may be resisted in some contexts, whereas in other cultures there may be reluctance to disclose in front of another man of their own religion.³⁹

Actions must also be targeted specifically towards children born out of rape to ensure they are free from discrimination. Creating protection mechanisms in schools and communities, and providing tailored support services should be adopted. These measures must be designed in a way that ensures the interventions themselves are not counterproductive by unintentionally building more stigma. Approaches such as granting scholarships to children born of rape need to be assessed for whether they will brand the recipient as a victim and inadvertently contribute to their social ostracism. Instead, initiatives that engage not just the individual but also the family of the victim/survivor, including through strengthening economic opportunities, may benefit the whole family, encourage reunification, and lessen stigma.⁴⁰

Engaging with a diversity of actors is critical to address stigma. While government representatives and civil society figureheads may advocate for the rights of victims/survivors, engaging community leaders who can exert influence at the local level is fundamental to changing the social norms that enable stigma to be perpetuated.

Faith-based organisations and leaders are powerful actors in promoting social cohesion. In **Bangsamoro, Philippines**, Islamic leaders issued a *fatwa* endorsing women's access to reproductive health services and condemning gender-based violence.⁴¹ Other faith-based approaches such as workshops, peer support groups, church gatherings, and prayer groups, have been found to have the potential to change social attitudes and provide increased support for survivors.⁴² However, in some circumstances faith-based actors can also promote traditional attitudes that foster gender inequality. Research and engagement with religious leaders must be undertaken to better understand the circumstances in which they combat, perpetrate or permit violence, and what their role is in responding to the ongoing impacts of stigma for CRSV survivors. This will provide a deepened understanding of how to engage with religious leaders to encourage positive change at the community-level.

39 Sexual Violence Research Initiative, Briefing Paper: Care and Support of Male Survivors of Conflict-Related Sexual Violence (2016).

40 UN Women, War-time sexual violence survivors lead businesses and fight stigma, 5 December 2016, <http://www.unwomen.org/en/news/stories/2016/12/war-time-sexual-violence-survivors-lead-businesses-and-fight-stigma>.

41 UNFPA Philippines, "UNFPA hails new fatwa on early marriage, gender and youth", 23 November 2015, <http://www.unfpa.org.ph/index.php/news/268-unfpa-hails-new-fatwa-on-early-marriage-gender-and-youth>.

42 The role of faith based organisations in preventing and responding to sexual, intimate partner and gender-based violence in conflict settings: A modified critical interpretive synthesis. Magner, K., Desrosiers, J.E., Blunt, I., Hawken, T., Brick, E. University of Otago for the Sexual Violence Research Initiative, SVRI (2015)

Engaging with the media and undertaking memory work such as documenting atrocities, can improve awareness of the violations committed during conflict and serve to de-stigmatise survivors.

At the same time as engaging with local actors, utilising these ground-level experiences to inform the development of policy can assist in ensuring mainstreaming of measures to combat stigma across sectors. Policy approaches can have an impact in mitigating the intergenerational perpetuation of stigma.

To respond to social, cultural and religious discrimination towards victims/survivors and their children:

- Build the internal advocacy of victims/survivors at the country level through community approaches to shifting stigmatising attitudes and tackling gender norms;
- Provide psycho-social support targeting victims/survivors and their families and communities that account for collective trauma experienced, and work to combat cycles of re-traumatisation;
- Provide for locally-led design of interventions to support survivors to ensure that interventions themselves do not inadvertently identify victims/survivors;
- Engage diverse local actors including religious and traditional leaders, and the media, in ensuring context-specific approaches to social change;
- Commit to policy measures that can facilitate efforts to reduce discrimination.



3. BEYOND ACCOUNTABILITY: A VICTIM/SURVIVOR CENTRED APPROACH FOR ADDRESSING CONFLICT-RELATED SEXUAL VIOLENCE

THE CHALLENGE

Over the past two decades, addressing CRSV has been focused on holding perpetrators accountable through the conduct of investigations and prosecutions. International criminal tribunals and hybrid mechanisms have conducted high-profile prosecutions of those responsible for facilitating and committing sexual violence during conflict, and truth commissions have taken place. In post-conflict and transitional settings, the international community continues to urge for formal judicial bodies to be established and accountability measures to be prioritised.

Ensuring that the perpetrators of sexual violence are held accountable for their crimes is essential to providing redress to those violated. But at times this focus on the perpetrator can obscure the other needs of victims/survivors. Additionally, it can create a political stalemate that deters governments from delivering much-needed support and services to survivors and their children. By making the pursuit of accountability a precursor to engaging in all other forms of addressing sexual violence, political resistance to establishing a truth commission or a formal justice process that includes sexual violence within the scope of investigation can mean that attention to delivering other forms of redress is neglected.

This reticence to address conflict-related crimes, including those of sexual violence, is in part due to state actors possibly having been involved in the commission of those crimes. In many contexts in Asia-Pacific, the military has been involved in the perpetration of sexual violence yet maintains a high-level of influence in the post-conflict period. This continued power makes the investigation and prosecution of their war-time actions unlikely.

State resistance to acknowledging CRSV can manifest in multiple ways. Weak legislative frameworks, institutionalised impunity for state actors by providing amnesties and enabling military courts to operate outside the state justice system,⁴³ corruption within the judiciary, and minimal implementation of international laws and standards—including of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)—can all reflect a failure of the State to take responsibility for violations committed during conflict. By failing to accept responsibility for addressing the violations committed during conflict, not only is justice denied but other immediate entitlements of victims/survivors are also ignored.

Increased political commitment is needed to advance mechanisms for receiving practical support to survivors beyond accountability forums alone. This political support is also vital to challenge the stigma suffered by victims/survivors and children born of rape by leaders speaking publicly on the issue, and supporting families and communities.⁴⁴

⁴³ See for example, Constitution of Myanmar, Articles 294 and 343(b).

⁴⁴ Summit Report: The Global Summit to End Sexual Violence in Conflict, London (2014), p.21.

A WAY FORWARD

While the need for accountability forums remains fundamental, reorienting the focus of the State to increase attention to the needs and rights of victims/survivors can ensure practical responses and services are received. Interventions can be engaged in on multiple tracks and can operate alongside pursuing accountability for offenders. These measures can function to build resilience, community cohesion, and contribute to sustainable peace.

One strategy to encourage action on CRSV is to engage in increased political advocacy, recognising the global importance of the issue. Global initiatives such as The Declaration of Commitment to End Sexual Violence in Conflict have been endorsed by 155 countries including several from Asia-Pacific.⁴⁵ Ministers recognised that a co-operative approach to addressing sexual violence in armed conflict, which is often not considered a priority in the face of other pressing security and conflict concerns, would bring greater impact. This improved co-ordination, particularly in support of the work of the United Nations and other multilateral organisations, is vital to improving global efforts.⁴⁶ Affirming their commitment to the Declaration, the Foreign Ministers of **Indonesia, the Philippines and Timor-Leste** publicly emphasised their determination to accelerate efforts to address sexual violence in armed conflict through increased access to justice, including: ensuring accountability for the perpetrators and reparations and rehabilitation for victims; and to provide better access to comprehensive services, such as food, shelter, health care, psycho-social care and education, during and in the aftermath of conflict.⁴⁷ This signifies an encouraging commitment at the global level that must now be coupled with practical measures and national-level policies to ensure that these same actions are afforded to those in their own countries.

The national-level recognition of CRSV is making slow progress in several settings in the region. In **Myanmar**, the Nationwide Ceasefire Agreement 2015 expressly mandated that sexual violence must not be committed under the terms of the ceasefire.⁴⁸ In **Nepal**, formal recognition of the victims of conflict-related sexual violence has been recommended as a critical political commitment to provide redress for survivors.⁴⁹ The Government of Nepal has responded to this by committing to the development of its second NAP-WPS having an emphasis on addressing CRSV.

Political sensitivities to acknowledging the occurrence of CRSV should not inhibit the rights of survivors to receive support and social services that can alleviate the physical and mental impacts of their experiences, and economic opportunities to counter poverty. Services can be strategically offered to target communities, and psycho-social support and sexual and reproductive healthcare made available to communities affected by conflict, but without needing formal recognition that the target recipients are conflict-affected. Government social service agencies can use data highlighting the need for these services in specific communities without needing to label them as 'conflict interventions'. Such strategic actions should not be understood to detract from or undermine the necessity of accountability mechanisms, formal apologies, and State acknowledgement

45 A Declaration of Commitment to End Sexual Violence in Conflict, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/244849/A_DECLARATION_OF_COMMITMENT_TO_END_SEXUAL_VIOLENCE_IN_CONFLICT__TO_PRINT....pdf; G7 Report on the Implementation of the G8 Declaration on Preventing Sexual Violence in Conflict, <http://www.g8.utoronto.ca/foreign/151125-preventing-sexual-violence.html>

46 Declaration on Preventing Sexual Violence in Conflict, Adopted by G8 Foreign Ministers, London, 11 April 2013.

47 Joint Statement by the Ministers for Foreign Affairs of Indonesia, the Philippines and Timor-Leste on Preventing and Addressing Sexual Violence in Armed Conflict, June 2014.

48 Nationwide Ceasefire Agreement 2015; UN Women Myanmar, The Nationwide Ceasefire Agreement in Myanmar: A Gender Equality and Women's Rights Analysis (2016), <http://asiapacific.unwomen.org/en/digital-library/publications/2017/02/the-nationwide-ceasefire-agreement-in-myanmar>.

49 SC/2016/361, Report of the Secretary-General on conflict-related sexual violence, 20 April 2016.

and acceptance of responsibility for CRSV. Instead, they function parallel to the pursuit of those objectives and may work to sensitise the Government to the prevalence of CRSV and needs of victims/survivors, and can contribute to formal processes becoming more politically viable.

To promote a victim-centric approach that enables the delivery of support and services:

- Reorient advocacy on CRSV to push for the needs of victims/survivors to be met and not dependent on an accountability process taking place first;
- Build political commitment to tackle CRSV at the national and international levels, including through official recognition of atrocities, the establishment of truth commissions and transitional justice mechanisms, delivery of reparations, and public advocacy;
- In the absence of national acknowledgement of the incidence of CRSV, identify target communities for response interventions and strategically deliver support through sectoral service provision frameworks.



RECOMMENDATIONS FOR CREATING AN EFFECTIVE NATIONAL ARCHITECTURE: A FRAMEWORK OF ACTION TO DELIVER MEANINGFUL RESPONSES FOR CRSV VICTIMS/SURVIVORS AND THEIR CHILDREN

This paper highlights that addressing the needs of victims/survivors and their children through better understanding their needs, combatting stigma, pursuing accountability for the perpetration of sexual violence, and ensuring overall access to and benefits from support and services must all be progressed simultaneously. Making action on one measure contingent on progress on another measure risks stalling all objectives from moving forward. A practical and well-coordinated framework for implementation of these measures can help deliver benefits in a cohesive manner and can promote women's agency and inclusion.

Three stages of action can be advanced to design and implement these measures in a way that benefits victims/survivors. Firstly, an effective, context-specific architecture of mechanisms, frameworks and laws that promote WPS commitments and initiatives on CRSV must be developed. This architecture can involve National Action Plans, transitional justice processes, or laws and policies that are strategic and responsive to the political and social environment. Secondly, the harmonisation of these WPS mechanisms with each-other, and with other existing laws and policies, can create a coherent operating space. Thirdly, this coherent and locally reflective operating space should be used to deliver meaningful and impactful responses for survivors that reflect community needs.

STEP 1: CREATE A STRATEGIC AND NATIONALLY EFFECTIVE WPS ARCHITECTURE FOR RESPONDING TO CRSV

Establishing the framework for advancing WPS commitments, including tackling CRSV, requires building mechanisms, policies and laws that provide mandates and forums to enable the delivery of responses. A NAP-WPS is a single cohesive approach that can address the spectrum of WPS concerns. Yet in contexts where there is a lack of political will to support a NAP-WPS, or an inability to ensure its implementation and monitoring, alternate means of addressing CRSV may be more strategic in the short-term. A national WPS framework that facilitates the delivery of responses to victims/survivors may include all of the options below, only some of them, or an alternate combination of policies, laws, and mechanisms:

National Action Plans on Women, Peace and Security

NAPs-WPS are designed to provide a coherent national approach to the implementation of WPS objectives and commitments under UNSCR 1325 and related resolutions by integrating these commitments into national policy. They have been adopted both by conflict-affected countries and regions, and by those countries that focus their WPS activity on maintaining international peace and security and preventing internal conflicts through conflict resolution, preventive diplomacy, peace-keeping, and post-conflict recovery initiatives. As of April 2017, nine countries in the Asia-Pacific region have adopted a NAP-WPS.⁵⁰

NAPs-WPS are a framework for governments and their partners to identify priorities, determine responsibilities, allocate resources, and initiate strategic actions within a defined timeframe. To encourage coherent, targeted and impactful action, NAPs-WPS require strong leadership and coordination that promotes implementation; inclusive processes that enable the participation of

⁵⁰ Afghanistan, Australia, Indonesia, Japan, Republic of Korea, Nepal, New Zealand, the Philippines, Timor-Leste.

CSOs at all stages of the NAP-WPS cycle; predictable and sustainable financing through costing and allocating budgets for NAP-WPS delivery; robust frameworks for monitoring, reporting and evaluation; and flexibility to adapt to emerging situations.⁵¹ NAPs-WPS can design initiatives for responding to CRSV, particularly the provision of psycho-medical and psycho-social services, and data collection. Governments and CSOs can collaborate in providing social services.⁵²

NAPs-WPS can also support an incremental approach for building political support to address CRSV. In **Nepal**, the first NAP-WPS paid minimal attention to CRSV. But under the current development of the second NAP-WPS, the Government has made clear that CRSV victims/survivors will be the primary beneficiaries. This is in part because the first NAP-WPS was identified as a global good practice example of inclusive design, and this generated the political will to further WPS commitments.⁵³

Transitional justice approaches and truth forums

Transitional justice forums and processes can ensure victims/survivors receive redress and reflect their rights and perspectives. National consultations, truth-seeking processes, criminal justice proceedings, reparations, and institutional reform can all respond to CRSV through engaging survivors and delivering responses that promote empowerment, recognition, and redress.⁵⁴

In Asia-Pacific, a number of past and ongoing truth-seeking processes have included CRSV within their scope of enquiry. In **Sri Lanka**, a Truth Commission has been committed to and a reparations programme is being pursued by civil society to compensate CRSV survivors for the economic effects of sexual violence on victims from lost livelihoods, diminished marriage prospects, social ostracisation, interrupted schooling, and psychological trauma.⁵⁵ In **Aceh**, Indonesia the formation of the Truth and Reconciliation Commission is also progressing.⁵⁶ In **Timor-Leste**, the Commission for Reception, Truth and Reconciliation found that rape was committed as a crime against humanity and made specific recommendations to eliminate GBV and provide support to women.⁵⁷ This truth commission preceded Timor-Leste's development of a NAP-WPS, which now incorporates actions based on the truth commission findings.

Globally, there has been increased political willingness to respond to CRSV through delivering reparations to survivors.⁵⁸ These schemes are intended to deliver justice by ensuring restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Reparations should account for the gendered-nature of the harm suffered by both males and females, and should be transformative in addressing gender inequalities in the community.⁵⁹ The design of reparations must also be interpreted in a broad way that focuses on being gender-sensitive and responsive to the realities of victims/survivors' lives.⁶⁰

51 UN Women, Global Study on UNSCR 1325 (2015).

52 UN Women, Report of the Asia-Pacific Symposium on National Action Plans on Women, Peace and Security, December 2016.

53 UN Women, Global Study on UNSCR 1325 (2015).

54 OHCHR, Sexual and gender-based violence in the context of transitional justice, October 2014, http://www.ohchr.org/Documents/Issues/Women/WRGS/OnePagers/Sexual_and_gender-based_violence.pdf.

55 Centre for Policy Alternatives, Accountability and Reparations for Victims of Conflict Related Sexual Violence in Sri Lanka, July 2016.

56 Amnesty International, "Indonesia: Appointment of Aceh truth commission selection team a step closer to truth and reparation for victims", 30 November 2015, <https://www.amnesty.org/download/Documents/ASA2129762015ENGLISH.pdf>.

57 Commission for Reception, Truth and Reconciliation, Chega! Report (2005), <http://www.cavr-timorleste.org/en/chegaReport.htm>

58 UN Women, Global Study on UNSCR 1325, p.117.

59 Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence, June 2014.

60 UN Women, The Conflict Did Not Bring Us Flowers: The need for comprehensive reparations for survivors of conflict-related sexual violence in Kosovo (2016); UN Women, A Window of Opportunity: Making Transitional Justice Work for Women (2012).

International mechanisms including CEDAW

International commitments and processes such as the Universal Periodic Review and CEDAW provide frameworks of accountability for the human rights of survivors that the State is obliged to implement at the national level. CEDAW General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, is one international tool that can complement WPS commitments in countries with a NAP-WPS and can guide their content.⁶¹ It also provides a complementary method of implementing the WPS agenda in those countries that have not yet developed a NAP but have ratified CEDAW. It can also be used by civil society to monitor the delivery of CRSV responses as part of the State's international obligations.

The CEDAW Committee has urged a range of actions in Asia-Pacific to respond to CRSV. These include recommending a comprehensive programme of transformative reparations that addresses violence against women and girls in **Timor-Leste**.⁶² The Committee has encouraged repealing laws that perpetuate impunity for sexual violence committed during and after conflict and ensuring that shelters are adequately equipped and available to women who have suffered SGBV in **Myanmar**.⁶³ It has also urged taking comprehensive measures to provide medical and psychological support to women victims of sexual violence committed during conflict and to establish counselling centres in **Indonesia**.⁶⁴

STEP 2: HARMONISE INITIATIVES ACROSS GOVERNMENT TO ENABLE COORDINATED RESPONSES TO VICTIM/SURVIVOR NEEDS THAT CAN BE DELIVERED AT THE LOCAL LEVEL

Frameworks and mechanisms that advance WPS objectives must be harmonised with existing government initiatives to ensure coherent implementation across sectors. Strategic engagement with gender equality and women's empowerment activities, including the Ending Violence Against Women (EVAW) agenda, can encourage the mainstreaming of CRSV responses throughout government action. These coordinated interventions must be adequately resourced and developed in a way that will deliver benefits to victims/survivors at the local level:

Coordination of government initiatives including policies, plans and laws that advance the gender equality and women's empowerment agenda

Measures to respond to CRSV, including through a NAP-WPS, must be aligned with broader gender equality and women's empowerment initiatives to address the link between women's rights and protections in conflict as in peacetime.

Linking a NAP-WPS to existing laws and legislative priorities is one way in which objectives can be harmonised. In **Indonesia**, the NAP-WPS cross-references the Law on Social Conflict Management and laws implementing international human rights commitments.⁶⁵ NAPs-WPS can also prompt legislative and administrative amendments and change to create a more integrated overall

61 CEDAW/C/GC/30, CEDAW General Recommendation No.30 on women in conflict prevention, conflict, and post-conflict situations, 18 October 2013.

62 CEDAW/C/TLS/CO/2-3, Concluding Observations on the Combined second and third periodic reports of Timor-Leste, 24 November 2015 at 19(c).

63 CEDAW/C/MMR/CO/4-5, Concluding Observations on the combined fourth and fifth periodic reports of Myanmar, 25 July 2016, at 27(b) and (e).

64 CEDAW/C/IDN/CO/6-7, Concluding Observations on the combined sixth and seventh periodic report of Indonesia, July 2012 at 28(c).

65 The National Action Plan for The Protection and Empowerment of Women and Children During Social Conflict of 2014-2019, Indonesia.

framework. **Nepal** has noted that the NAP-WPS is guiding the amendment of legal provisions to allow for prosecution of sexual violence during the conflict and changes to statutory limitations in existing laws for filing complaints.⁶⁶

NAPs-WPS can also be linked to other National Action Plans. In **Sri Lanka**, the NAP-WPS is being developed to work alongside the National Action Plan on Sexual and Gender Based Violence, which focuses on mobilising women's groups to prevent sexual and gender-based violence, and to work with men and boys to promote positive, non-violent values.⁶⁷ Sri Lanka also has a GBV National Action Plan and national policies targeting female heads of households, presenting opportunities to coordinate actions that address CRSV.

For countries without a NAP-WPS such as **Myanmar**, other frameworks such as the National Action Plan on Women's Advancement can be engaged with to promote action on the empowerment of all women, including those impacted by CRSV.

In environments where acknowledging CRSV may be lacking political support, delivering responses through ERAW initiatives can present a useful entry point. The peacetime occurrence of VAW is increasingly accepted as impeding women's human rights and is an area in which States are often willing to take strong action. In many countries in Asia-Pacific, VAW is tackled through the development of national plans and policies,⁶⁸ engagement with advocacy campaigns to shift social attitudes that legitimise violence against women,⁶⁹ and making public statements of commitment.⁷⁰ Yet these initiatives are largely focused on current victims of violence and rarely target those that have experienced sexual violence during times of conflict. In **Timor-Leste**, the government's domestic violence strategy focuses on the delivery of immediate responses such as emergency healthcare and crisis accommodation. However, the ongoing needs of women victims of conflict in relation to housing, chronic health conditions, psycho-social support and economic empowerment are not accounted for.⁷¹ Both Government and civil society advocates can emphasise that the needs of survivors must be met regardless of who the perpetrator of sexual violence was, to push for the review and amendment of existing ERAW initiatives and laws to be inclusive of CRSV.

Cost and finance actions and attach budgets to action plans and policies to ensure they can be delivered

As part of its obligation to citizens to provide social services, healthcare, and access to justice, the primary responsibility for responding to the needs of victims/survivors rests with the government. Prioritising the allocation of resources to these services is often a challenge for governments and providing them in the context of CRSV can pose further barriers.

Gender-responsive budgeting approaches are a useful tool in ensuring that plans and policies to address CRSV are sufficiently resourced. In the **Philippines**, it is mandated that of the total budget given to local governments, 5 percent must be used on gender-responsive programmes.

66 CEDAW/C/NPL/CO/4-5/Add.1, Information provided by Nepal in follow-up to the concluding observations, 23 April 2015, para 17.

67 Statement of the Honourable Chandrani Bandara, Ministry of Women's Affairs, Sri Lanka, 13 July 2016 in UN Women Report of the Asia-Pacific Symposium on National Action Plans on Women, Peace and Security, December 2016.

68 For example, Timor-Leste's National Action Plan on Gender Based Violence

69 For example, the He for She Campaign and the Secretary-General's Campaign UNiTE to End Violence Against Women, <http://www.un.org/en/women/endviolence/>.

70 For example, UN Women 'Quezon City Mayor Bautista Says, "Stop Street Harassment Of Women In Our City"', December 2015, <http://asiapacific.unwomen.org/en/news-and-events/stories/2015/12/stop-street-harassment-of-women-in-our-city>.

71 ACbit, 'Where are they now?: Women victims ten years after the Chegal Report in Timor-Leste', January 2016, <http://www.chegabaita.org/Files/Policy%20paper%20English%20version.pdf>.

Other strategies for financing including bilateral and multilateral cooperation, private sector partnerships, and working with civil society to ensure frameworks are resourced. Where resources are allocated to finance the delivery of CRSV initiatives, existing local governance mechanisms for implementation should be engaged to maximise funding.

Develop localisation strategies that link policy making at the central level with ensuring that benefits reach victims/survivors in remote areas

A frequent challenge of addressing CRSV to date has been that policy frameworks such as NAPs-WPS have focused activities at the central level and budgets have been spent without the benefits reaching survivors themselves.

Stronger localisation mechanisms at the district and village levels are one strategy that can assist in ensuring better access to benefits for victims/survivors. District coordination committees and the allocation of funds to local bodies can help CRSV survivors and their families access support. Victims/survivors and their communities should be involved in the operation of these local bodies from the outset. Capacity-building activities should be delivered to build local skills to engage with the implementation of policies and programmes. Ensuring that NGOs at the grassroots level are entrusted to manage financial resources can also encourage targeted responses to reach conflict-affected women, while enhancing civil society's engagement with these processes.⁷²

In addition, developing tools to monitor implementation at the local level can help keep delivery of responses on track. Using social accountability tools such as 'Community Score Cards' can engage civil society in monitoring and provide a mechanism through which processes can be evaluated and adjusted if they are failing to deliver the expected results.

STEP 3. ENSURE ACTIONABLE, COMMUNITY-LED AND CONTEXT-SPECIFIC RESPONSES FOR VICTIMS/SURVIVORS

The establishment of a robust and cohesive framework for CRSV response can enable support and services to reach victims/survivors and make valuable improvements to their lives. By engaging a range of actors, much needed and accessible services can be delivered to victims/survivors and contribute to their empowerment, and that of their broader communities. This step focuses on the content of interventions to be delivered:

Deliver multi-sectoral services that are accessible to diverse groups of victims/survivors

Recognising that many survivors regard overcoming poverty as their primary objective, practical and meaningful poverty-alleviation measures and access to essential services should be at the forefront of CRSV programme responses, alongside justice initiatives.

Whether delivered via a NAP-WPS or an alternative policy mechanism, survivors must benefit from an array of programmes, including health care, psycho-social care and socio-economic reintegration and livelihood support, and services for women with children born out of sexual violence.⁷³ This requires cooperation and coordination between government and NGOs across health, social services, legal and security sectors.⁷⁴

72 Cordaid and ICAN-GNWP, Costing and Financing 1325: Examining the Resources Needed to Implement UN Security Council Resolution 1325 at the National Level as well as the Gains, Gaps and Glitches on Financing the Women, Peace and Security Agenda (2011).

73 SC/2016/361, Report of the Secretary-General on conflict-related sexual violence, 20 April 2016.

74 Ward, J. and Marsh, M. UNFPA, Sexual Violence Against Women and Girls in War and its Aftermath: Realities, Responses, and Required Resources (2006).

The Global Summit to End Sexual Violence in Conflict highlighted that the integration and co-ordination of service delivery should enable survivors to receive care in an integrated manner, including through 'one-stop' shops that deliver holistic services. The importance of enabling women's strategic participation in designing and implementing these initiatives was also emphasised.⁷⁵

These services should tailor responses to CRSV to the specific needs of victims/survivors that are also female heads of households, ex-combatants or wives for former combatants, refugees or IDPs, survivors with disabilities, ethnic minority women, or children of survivors. In **Sri Lanka**, the need for multi-sectoral services to reach survivors and the implementation of economic empowerment programmes that benefit women in militarised areas who are also heads of households has been highlighted for implementation.⁷⁶

Victim-centric approaches must also be adopted by service providers including by addressing language and literacy barriers, supporting victims/survivors to fill out forms, and ensuring easy access to information including about avenues for access to justice.

Engage a range of actors to both tackle stigma and deliver holistic and effective responses

Government, civil society, service providers, media, and faith leaders are all key actors in shifting stigma towards CRSV. Each actor has a role to play in promoting and delivering support and services to victims/survivors through NAPs-WPS or other policy interventions, and in advancing transitional justice objectives.

They can participate in delivering gender and conflict-sensitive responses to survivors across areas of primary responsibility, and can engage in community education, data collection and research, establishing referral networks and information sharing. Both government and civil society are essential in the monitoring and evaluation of CRSV responses to measure the quality of programmes and care being implemented. This role is critical to evaluate project components such as whether mental health and psycho-social support activities are those that are most effective in improving the well-being of CRSV survivors.⁷⁷

In particular, engagement with conflict victim representatives and local women's groups in all stages of design and implementation is essential to deliver programming that is reflective of survivor needs and promotes their leadership and decision-making.

Ensure responses are ethically delivered, build women's empowerment, and support community cohesion

Targeting programmes specifically to enhance the empowerment of CRSV victims/survivors and their children can promote a shift in household and community dynamics that combats stigma and improves the quality of life of recipients. Survivors must be involved in the design of these approaches from their inception to ensure community dynamics inform programmes and do not inadvertently enhance the stigma towards them or create resentment within communities.

Adopting an integrated approach that combines economic empowerment strategies such as livelihood support and vocational training or microfinancing, with service provision and community engagement in gender equality can help achieve this. Combining gender equality initiatives that benefit both women and their families together with economic empowerment approaches can

75 Summit Report: The Global Summit to End Sexual Violence in Conflict, London (2014), p.20.

76 SC/2016/361, Report of the Secretary-General on conflict-related sexual violence, 20 April 2016.

77 Tol, W. et al, Sexual and Gender-based violence in areas of armed conflict: A systematic review of mental health and psychosocial support interventions, Conflict and Health (2013).

reduce the risk that targeted support of women might disrupt gender norms in the household and place them at risk of intimate partner violence.⁷⁸

An example of this is cash transfers that target women. This intervention can have great benefits if designed and implemented in a sensitive manner that responds to cultural dynamics. Cash transfers can be delivered to women conditional on behaviours such as ensuring children attend school, and that pregnant women access institutional medical care. Cash transfers may have positive impacts within the household by reducing intra-household conflict and alleviating stress over financial and food security. The inclusion of a gender component has been found to mitigate the risk of violence in the household as a backlash.⁷⁹ When targeting victims/survivors for receipt of cash transfers, care must be taken not to place an undue burden on them for managing household finances, but rather enhancing their decision-making power and autonomy.



78 WHO, 16 ideas for addressing violence against women in the context of the HIV epidemic (2013), http://apps.who.int/iris/bitstream/10665/95156/1/9789241506533_eng.pdf.

79 Bell, E., Government of the UK, DFID, Violence against women and cash transfers in humanitarian contexts, February 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/425303/cash-transfers-humanitarian-settings.pdf.

3

CASE STUDIES FROM SRI LANKA AND NEPAL

Post-war Sri Lanka: Specific Needs of Sexual Violence Victim Survivors and Children Born of Rape

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ABOUT THE AUTHOR

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1. INTRODUCTION

Official statistics indicate that one in every four households in the country are female-headed, many of which have been affected by the war.¹ It is estimated that over 90,000 female heads of households are living in the north and east.² Women from the Sinhala, Tamil and Muslim communities have borne the brunt of the war, facing innumerable challenges as they struggle to rebuild their lives. Sri Lanka faces an uphill task in dealing with the past and holding those accountable for atrocities perpetrated during the war, including sexual violence against women.

1.1 CONTEXT

The Batticaloa district in the east was affected by the war. A women's organization working in Batticaloa has documented 31 cases of sexual violence perpetrated by armed actors between 1996 and 2014.³ The war ended in 2009 but cases of sexual violence continue to be documented by such organizations. The same organization reveals that between 2004 and 2014, there were 3,279 cases of gender-based violence reported to their organization, which average at approximately 300 women affected by violence each year. These reported cases include 143 grave crimes such as rape, murder, child rape, incest, sexual abuse, trafficking and sexual harassment.⁴ Incidents of violence have been documented by women's organizations working in the north.⁵ In October 2015, four military personnel were convicted by the Jaffna High Court for the rape of a Tamil woman and the sexual abuse of another.⁶ Sexual exploitation of female heads of household in the north by government officials has been recently documented.⁷

According to the government's reply to the List of Issues sent by the CEDAW Committee, *"Instructions have been issued to all branches of the security forces as well as the Police that strict action will be taken against all members of the Armed forces and Police who engage in Human Rights violations which includes torture, rape and sexual and gender based violence."*⁸ A monitoring mechanism that will oversee these instructions is required in order to ensure compliance with the instructions.

1.2 DEFINING CONFLICT-RELATED SEXUAL VIOLENCE (CRSV) IN SRI LANKA

For the purposes of this case study, conflict-related sexual violence (CRSV) includes early or forced marriage, sexual exploitation, rape, gang rape, sexual abuse, sexual harassment, continuous checkpoint harassment, domestic violence, trafficking, unwanted pregnancies, forced contraception, sexual torture, marital rape, sexual harassment and violence and harassment during military surveillance.

1 <http://www.statistics.gov.lk/HIES/PreReportHIES2009Eng.pdf>

2 This is a conservative estimate given that the State does not have a clear categorisation of who a female head of household is.

3 Suriya Women's Development Centre.

4 Suriya Women's Development Centre.

5 Shadow Report submitted by Women's Action Network (WAN) to CEDAW, 66th session, Sri Lanka Review, February 2017.

6 <http://srilankabrief.org/2015/10/vishwamadu-military-rape-case-these-crimes-are-not-committed-by-the-military-alone-wan/>, accessed on 28 February 2017.

7 Sexual Exploitation of Female Heads of Households in the North: Twenty-Five Case Studies, FOKUS WOMEN, January 2016.

8 http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LKA/CEDAW_C_LKA_Q_8_Add-1_26040_E.pdf

Militarisation of the war-affected areas has also resulted in other forms of sexual violence (SV), such as sexual humiliation, SV during arrests, forced sexual servicing and sexual slavery for armed actors, sexual threats and other forms of SV during surveillance efforts.⁹ These forms of SV continue post-war. The continuum of violence is seen in the pre-conflict violence, violence during war and violence in the post-war context.

2. INTERNATIONAL AND NATIONAL FRAMEWORK OF CRSV IN SRI LANKA

2.1 UN SECURITY COUNCIL RESOLUTION 1325 AND SUBSEQUENT RESOLUTIONS

United Nations Security Council Resolution (UNSCR) 1325 calls upon States to take special measures during armed conflict to protect women and girls from gender-based violence (GBV), particularly rape and other forms of sexual abuse and other forms of violence. The Resolution also emphasises that the “*special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction*” must be addressed through a gender perspective.¹⁰ State responsibility to end impunity and to prosecute those responsible for sexual violence against women and girls is also stressed in Resolution 1325.

The subsequent Security Council Resolutions 1820, 1888 and 1889 recognise sexual violence as a tactic of war. However, they fail to recognise the other forms of sexual violence that are perpetrated during and after war, and that these resolutions do not address the reality that other forms of CRSV exist.

2.2 THE LACK OF A NATIONAL ACTION PLAN ON WOMEN, PEACE AND SECURITY (NAP-WPS)

Sri Lanka has a plethora of action plans and policies that are slow to be implemented or remain unimplemented. Examples include the recently adopted GBV National Action Plan and the Prevention of Domestic Violence Action Plan.

Several attempts were made by the government to formulate a National Action Plan on Women, Peace and Security (NAP-WPS) for Sri Lanka. The government initiated several consultations with civil society and women’s organizations to kick-start the process. Initially, the idea was to adopt a separate NAP on WPS. Subsequently, this plan was abandoned and it was decided to include a section on WPS in the draft National Plan of Action for Women, which is yet to be adopted. Subsequently, a Resolution 1325 NAP was developed by the Ministry of Women’s Affairs (MoWA) in early-2016. There were no consultations held with women’s organizations and the NAP has not been shared publicly yet. With the proliferation of NAPs and policies in Sri Lanka, a separate 1325 NAP is likely to result only in the State having another NAP that will remain unimplemented. Several civil society organizations (CSOs) continue to work on WPS issues with war-affected women from the Sinhala, Tamil and Muslim communities without a 1325 NAP, and this strategy has not affected civil society’s work on WPS.

⁹ Suriya Women’s Development Centre.

¹⁰ Section 8 of the UN Security Council Resolution 1325.

In the absence of a NAP-WPS, different strategies and responses are required. It is possible to rely on the existing policies and plans if there is a coordinated effort towards implementation. This will obviate the need to have multiple plans and policies. A new National Human Rights Action Plan 2017-2021 (NHRAP) was recently endorsed by the Cabinet of Ministers. The different sub-sections of the NAP were drafted by sub-committees that consisted of civil society representatives and officials from the different Ministries. The women's rights section of the NHRAP includes several action points to address the needs of CRSV survivors, including female heads of households.

During the operationalisation of the previous NHRAP (2011-2016), an Inter-Ministerial Committee on Human Rights, consisting of secretaries of relevant ministries was set up to oversee its implementation. A more effective mechanism should be set up once the new NHRAP comes into operation in 2017.

2.3 HOW ARE THE NEEDS OF CRSV SURVIVORS MET THROUGH THE CURRENT LEGAL FRAMEWORK?

The current legal framework fails to adequately provide for CRSV survivors. The Victim and Witness Protection Act was passed in 2015. The Act details a victim and witness protection regime and establishes an authority to oversee the process. However, the law has been severely criticised due to its failure to address the rights of victims and witnesses adequately. Currently there are moves to introduce amendments to strengthen the law.

The Penal Code contains several offences including rape, grave sexual abuse and sexual harassment. These offences provide limited recourse to a CRSV survivor. The Convention Against Torture Act of 1994 also contains several gaps and does not address CRSV directly. Separate legislation is required to include SV as a crime against humanity or as a war crime.

3. THE NEEDS OF CRSV SURVIVORS AND MECHANISMS OF RESPONSE

3.1 CRSV SURVIVORS AND THEIR SOCIO-ECONOMIC NEEDS AND ACCESS TO JUSTICE

CRSV survivors, including female heads of households that have been subject to SV require access to socio-economic opportunities and access to justice. These include access to livelihood opportunities, access to health and sexual and reproductive health care, land ownership, access to water and other socio-economic rights. Survivors, in order to access the criminal justice system to seek justice for violations committed against them, require psycho-social support, legal support, psychological and psychiatric services, professional counseling and support services and the guarantee of physical protection due to fear of retaliation from perpetrators. When accessing the criminal justice system, Tamil-speaking CRSV survivors (including Tamil and Muslim women) face a language barrier throughout the criminal justice process in the courts, when accessing health services and when they approach law enforcement officers.

A National Initiative for Empowering Women Headed Households (WHHs) was approved by the Cabinet in late-2016.¹¹ It aims to reach 6,500 WHHs in 25 districts within a four-year time frame. The

¹¹ A Programme Proposal for the Government of Sri Lanka by UNFPA as Chair and on Behalf of the Gender Theme Group of the United Nations, August 2016.

five intervention areas are health, livelihoods, support services, security and social protection. The security intervention includes the provision of legal services at police stations for SGBV, child sexual abuse, exploitation and child labour-related issues and fast response services for these issues. This initiative is limited in scope and does not address the needs of women in a holistic manner and there is no specific focus on CRSV survivors.

Stigma and CRSV

Stigma affects women from different communities differently. Stigma of sexual violence survivors has not been documented and there have been no strategic interventions targeting the reducing of stigma among CRSV survivors. Social and cultural barriers prevent women from coming forward to seek any form of support services. Tackling stigma among CRSV survivors can strengthen communities through their engagement in public life and participation in political processes.

Transitional justice and CRSV survivors

There is a significant lack of awareness in the war-affected districts of the north and east on what transitional justice entails. A similar situation prevails in the south. There is more awareness among CRSV survivors.¹² The State does not have a communication strategy that reaches out to the war-affected communities and to those in the south. In keeping with the commitment made at the Human Rights Council¹³ on the setting up of transitional justice mechanisms, the State will need to improve its communication strategy to ensure that these mechanisms will be used by those affected by the war, including CRSV survivors. The State must also provide psycho-social and counseling services, accompaniment and protection to survivors of SV who wish to approach the Special Court, the Truth Commission, the Office on Missing Persons (OMP) and the Office for Reparations. A gendered approach to memorialising must also be taken into consideration by the State, so that different approaches to memorialisation can be debated and consensus reached by women in the different communities. The sequencing of these mechanisms will impact on the lives of CRSV survivors who have been denied justice for many years. A gendered policy on reparations is needed to ensure that women are provided with redress for the sexual violence they have been subjected to during and after the war. CRSV survivors also may wish to access the Truth Commission to seek justice.¹⁴ CRSV survivors who are female heads of households due to the enforced disappearance of their husbands, missing husbands or those who are widowed, need to be provided with protection. Awareness of these processes is critical if women are to seek justice through these mechanisms.

3.2 HIGHLIGHTING THE NEEDS OF CRSV SURVIVORS AT INTERNATIONAL LEVEL

Many international processes provide an opportunity to highlight the needs of CRSV survivors in Sri Lanka, in the absence of a NAP-WPS. For example, the Universal Periodic Review (UPR), the CEDAW review process and the missions of United Nations Special Rapporteurs. Sri Lanka is due to report under the UPR process in August 2017 and the review will take place in November 2017. Similarly, the CEDAW Sri Lanka review took place in February 2017 and women's organizations that have submitted shadow reports have stressed on the needs of sexual violence survivors, including female heads of households, and urged the State to take measures to address their specific needs. The Committee under the United Nations Convention on Economic, Social and Cultural Rights is

¹² Reports of consultations held in Jaffna and in Batticaloa with local level government officials and women leaders on transitional justice and taking women into account, FOKUS WOMEN, January and February 2017.

¹³ Human Rights Council Resolution 30/1 on Promoting Reconciliation, accountability and human rights in Sri Lanka. <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G15/220/93/PDF/G1522093.pdf?OpenElement>

¹⁴ The government of Sri Lanka in its statement at the Human Rights Council session in February 2017 has committed to having draft legislation to establish a Truth-Seeking Commission in the next two months. See <http://www.news.lk/fetures/item/16053-statement-by-minister-of-foreign-affairs-at-the-34th-session-of-the-unhrc>

also due to review the Sri Lanka State Report in mid-2017. These United Nations processes provide a platform to make visible the urgent needs of CRSV survivors and to urge the State to expedite measures to address their needs.

The missions of United Nations Special Rapporteurs that visited Sri Lanka in the recent past have also provided the opportunity to raise CRSV survivors' concerns. Examples include visits by the Special Rapporteur (SR) on Minorities, Rita Izsák-Ndiaye and the SR on Transitional Justice, Pablo de Grieff. Civil society needs to continue to lobby and pressurise the government to address the specific needs of CRSV survivors. The United Nations Committee against Torture that met in 2016 to review the Sri Lanka State Report, raised the issue of the increase in rape and sexual violence after the war, and asked the government to outline the steps it has taken to investigate and prosecute all cases of sexual violence, particularly those committed by the military. The Committee also asked the government to explain how many cases of sexual violence had been prosecuted after the end of the war.¹⁵

4. CHILDREN BORN OF WAR (CBW) AND CHILDREN BORN OF RAPE (CBR)

There is very little research in Sri Lanka on children born of war (CBW) and children born of rape (CBR). Such cases have not been documented in a systematic manner (although anecdotal data possibly exists of isolated cases).¹⁶ The stigma attached to CBR and CBW would also differ depending on who the mother of the child is. For example, a CBW whose mother is an ex-combatant would face different challenges from a child whose mother is a female head of household who lost her husband in the war or whose husband is among the disappeared. A CBR would face more challenges than a CBW due to the stigma attached to rape. During the war, women who had been raped and became pregnant were sent to India by boat for their protection, having been forced to have abortions prior to leaving.¹⁷ No documenting of these instances was carried out according to one activist.¹⁸ A case where a woman was sexually exploited and raped is illustrated below. The rapes allegedly carried out by military officers resulted in her having two pregnancies that were aborted.

CASE STUDY¹⁹

The military camp is only 3 km from P's home. If she did not report on the fixed date, then the military CID would come in search of her frequently and sometimes many uniformed men surrounded her house. Every time P went to the camp she was asked to get into a room. The same officer would talk to her, touch her body (regardless of her hitting and shouting at him) and rape her...P conceived twice in 2008, as a result of the rapes and aborted the pregnancy in a private clinic in another district with the help of an activist. When she told this to the military guy who raped her regularly, he gave her contraception pills. She bled a lot when she terminated the pregnancy and a women's group took her to a hospital.

15 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20880&LangID=E>, accessed on 10 February 2017.

16 Efforts to find evidence did not reveal any significant data on CBW and CBR.

17 Email conversation with woman activist from the north on 26 February 2017.
The researcher was unable to find any other information in this regard.

18 Sexual Exploitation of Female Heads of Households in the North: Twenty-Five Case Studies, FOKUS WOMEN, January 2016.

19 The CEDAW Concluding Observations will be issued in March 2017. Right to Information Act No. 12 of 2016. No. 22 of 1994.

5. CONCLUSION

While internationally, pressure has been built on addressing the needs of CRSV survivors, there needs to be an acknowledgement from the government that CRSV is an issue in Sri Lanka that needs to be dealt with. Political will is needed to deal with CRSV in a cohesive manner. The proliferation of NAPs and policies does not ensure their implementation. Resources need to be allocated for the specific needs of CRSV survivors to be addressed.

Cases of CRSV must be documented in a more systematic manner, maintaining the confidentiality of the survivor, so that these cases can be accessed as an evidence-base for future interventions. If the specific needs of CRSV are to be met, the first step is to ensure the proper compilation of records. CRSV survivors need immediate assistance so that they can move on with their lives. It is imperative that any State intervention must take into account the fact that CRSV survivors are from all three communities: Tamil, Muslim and Sinhala. Interventions must be tailor-made to cater to the needs of CRSV survivors from each community.

6. SPECIFIC NEEDS OF CRSV SURVIVORS

General recommendations

The State must define CRSV survivors within the Sri Lankan context and this definition must take into account the multiple identities of victim survivors.

A global and/regional mapping of the different types of psycho-social services provided for CRSV survivors must be carried out, to be used as best practices.

In the absence of a NAP-WPS, the State must devise strategies and means of addressing WPS issues through existing NAPs and policies, such as the National FHH policy and the National Human Rights Action Plan.

Stakeholders must devise means of making use of or finding ways to address the needs of CRSV survivors through existing NAPs; for example, the National Initiative for Empowering Women Headed Households, National Human Rights Action Plan and the recently-adopted GBV National Action Plan.

Integrate tackling stigma of SV survivors into ongoing initiatives with different stakeholders, such as the judiciary, service providers, legal profession, psycho-social service providers, police, and faith leaders. Tackling stigma among CRSV survivors needs to be handled sensitively and must take a nuanced approach that takes into consideration the specific needs of women from Sinhala, Tamil and Muslim communities.

The State must address the root causes of stigma among CRSV survivors through well-designed state interventions.

The State must address the stigma of CRSV survivors through NAPs such as the National Human Rights Action Plan and the GBV National Action Plan.

Suitable reparations must be provided, taking into consideration the specific needs of CRSV survivors; and their voices must be heard in the reparations that they receive.

The war-affected areas must be demilitarised. Demilitarisation would contribute towards improving the physical security of women who have lived with the fear of violence due to the military presence for decades.

Devise strategies to address CRSV survivors' specific needs based on their vulnerability, ethnicity etc.; for example, female heads of households, female ex-combatants, military widows, Muslim, Sinhala and Tamil war-affected women and the specific types of SV they face.

A multi-level, multi-sectoral approach is needed to address CRSV survivors' practical and strategic needs.

A particular focus must be given to CRSV survivors who are female heads of households, as their needs differ, due to their vulnerability to sexual exploitation and their lack of physical security.

The State must initiate investigations into alleged sexual violence perpetrated against women during and after the war and prosecute and punish perpetrators found guilty of such offences.

The State must address the specific protection needs of female ex-combatants who are subjected to sexual violence after the war by the military.

Whilst the transitional justice mechanisms are being set up, it is imperative that CRSV survivors – especially in cases where the alleged perpetrators are from the armed forces and the police – are given support in terms of awareness, capacity and psycho-social support, so that they are prepared to approach these mechanisms.

CRSV survivors must be provided with information and support to access the recently set up independent commissions, to file their complaints concerning the sexual violence they have been subjected to. These include the Police Commission, Bribery Commission and the Human Rights Commission.

The State must conduct awareness on the transitional justice process among grassroots communities to encourage women in these communities to use the transitional justice mechanisms when they are set up.

The State must design more interventions to address post-war violence in war-affected areas, and thereby reduce the incidence of CRSV.

The socio-economic rights of CRSV survivors need to be met so that they can provide for their households and be able to participate in public life. Survivors must be able to access government services for their socio-economic needs, such as land registration and ownership, birth certificates for their children, welfare benefits and state-sponsored benefits such as pensions.

The State must provide opportunities for CRSV survivors to voice their opinions in the public space; for example, when interventions are designed for CRSV survivors, it is imperative that survivors are consulted.

The State must provide opportunities for CRSV survivors to play a role in decision-making at local level, so that their specific needs are met.

Meeting the specific needs of CRSV survivors by raising their needs at international level

The needs of CRSV survivors must be tackled by the State, by addressing the Concluding Observations of the CEDAW Committee, to be issued after its 66th Session in February 2017 that will deal with sexual violence during and after the war.²⁰

Civil society must continue to pressurise the international community, to in turn, put pressure on the government to address the needs of CRSV survivors.

Civil society organizations must send in shadow reports and alternate reports to forums such as CEDAW, the Human Rights Committee under the ICCPR and the ESC Committee under the ICESCR. In the absence of a WPS NAP, these reports will provide the required information to the various committees for concluding observations to address CRSV survivors' needs.

Meeting the specific needs of CRSV survivors through law and policy reform

Constitutional reform should necessarily ensure that the rights of CRSV survivors are included in a separate chapter on women's rights through a victim-centred approach. The right to be free from violence should be included as a fundamental right.

The Victim and Witness Protection Act should be amended to strengthen the protection mechanisms available for CRSV survivors and witnesses.

The State must take steps to build awareness among CRSV survivors on how they can make use of the newly-enacted Right to Information Act to seek information from public authorities that will assist them in their search for justice.²¹

The State must make amendments to the Penal Code to include mandatory payment of compensation for sexual violence victims where the perpetrators are State Officers.

The Convention against Torture and other Cruel, Inhuman, Degrading Treatment or Punishment Act²² should be amended to broaden the definition of 'torture' to include sexual violence as a form of torture and to include non-state actors.

The directive issued by the President to the armed forces and the police in 2016 on the adoption of zero tolerance for sexual violence must be strictly adhered to through the setting up of a monitoring mechanism to monitor progress.

The provisions of the National Policy on Female Heads of Households and the National Human Rights Action Plan and other policies and plans that deal with conflict-related sexual violence must be implemented.

Transitional justice, transitional justice mechanisms and how they will address the needs of CRSV survivors

A State communication strategy on transitional justice and transitional justice mechanisms to build awareness among communities affected by the war must be formulated to encourage those affected, including CRSV survivors to approach these mechanisms.

²⁰ The CEDAW Concluding Observations will be issued in March 2017.

²¹ Right to Information Act No. 12 of 2016.

²² No. 22 of 1994.

The State must provide accompaniment services to CRSV survivors to access the transitional justice mechanisms that will be set up and also provide support services in the giving of testimonies.

The State must expedite reparations for CRSV survivors taking into consideration their specific requests.

The State must take into consideration the voices and needs of CRSV survivors in providing space to communities to memorialise their experiences.

Children born of war and children born of rape

Recommendations

Generate more data and research on children born of war (CBW) and children born of rape (CBR) to design systematic interventions and make visible their issues while ensuring confidentiality to their cases.

National Policies and Action Plans need to address the specific needs of CBW and CBR through the inclusion of CBW and CBR in these policies and plans.

Policy also needs to address the specific needs of mothers of CBR during and after conflict.

The National Child Protection Authority (NCPA) and the Ministry of Women and Child Affairs must adopt long-term plans to deal with CBW and CBR, to deal with the specific needs of CRSV survivors and their children.

Raise awareness on the issue of CBR and CBW with the communities affected by war, on strategies to provide protection and support systems for these children.



Nepal: Needs of Sexual Violence Survivors and Children Born Out of Rape

Pinky Singh Rana

ABOUT THE AUTHOR

Pinky Singh Rana is involved in numerous CSOs as a researcher, trainer, programme designer and evaluator: advocating for gender equality, elimination of violence against women, ensuring women's reproductive rights and WPS. Ms. Rana has been involved in groundbreaking publications that have effectively been used by and for the women's movement in Nepal. During conflict and the post-conflict transitional period, Ms. Rana has strategically advocated for women's participation in peace-building and conflict transformation through: integration of UNSCRs 1325 and 1820 in security forces' training manuals, training to security personnel, reaching out to conflict-affected women's groups at grassroots and district levels, and monitoring of the National Action Plan (NAP) on Implementation of UNSCRs 1325 and 1820. An active member of the 1325 Action Group, Ms. Rana is currently engaged as a team member for drafting UNSCRs 1325 and 1820 NAP Phase II.

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1. INTRODUCTION

1.1 BACKGROUND

Wars and conflicts in recent history continually underline women and children's collateral victimisation. Death, disabilities, widowhood, physical and mental torture, violence – whether through direct, indirect or complete non-engagement in conflict – have become an inexorable fact.

In Nepal, exclusion of large numbers of Nepalese from political, economic and social processes based on their ethnicity, caste, gender and religion became root causes for a decade-long armed conflict (1996-2006). Although the conflict officially concluded with the signing of the Comprehensive Peace Agreement (CPA) between the Government of Nepal and the Communist Party of Nepal-Maoist (CPN-M) in November 2006, Nepalese women, men and children paid a heavy price. There have been over 17,000 deaths of women and men recorded by the Ministry of Peace and Reconstruction, over 8,000 children orphaned, an estimated 9,000 women widowed, over 1,300 disappeared, and over 4,000 women and men disabled.¹

Various forms of gender-based violence (GBV) encountered by women and girls, ranging from harassment and torture to conflict-related sexual violence (CRSV), have also been reported during this period. However, in the context of CRSV victims/ survivors and children born out of rape (CBR), official data is unavailable. Efforts by a few CRSVs to access justice have remained ineffectual, deterring others from reporting cases; in a society where sexual victimisation is regarded as taboo. The economic, social, medical and psycho-social needs of CRSV victims/survivors of CRSV and CBR remain to be systematically compiled. A decade since the CPA, victims/ survivors and CBR remain excluded from any government support services accessed by other conflict victims, while perpetrators continue to enjoy impunity.

2. INTERNATIONAL AND NATIONAL FRAMEWORK OF RESPONSE TO CONFLICT-RELATED SEXUAL VIOLENCE (CRSV) IN NEPAL

2.1 THE NATIONAL ACTION PLAN (NAP) ON IMPLEMENTATION OF THE UNITED NATIONS SECURITY COUNCIL RESOLUTIONS 1325 AND 1820 (2011/12 -2015/16)

Acknowledging the need for addressing the impacts of conflict on women and girls, the Government of Nepal adopted the National Action Plan (NAP) on Implementation of the United Nations Security Council Resolutions 1325 and 1820 (2011/12 -2015/16) on 1 February 2011. Structured around the five pillars of: (i) Participation; (ii) Prevention and Protection; (iii) Promotion; (iv) Relief and Recovery; and (v) Resource Management and Monitoring and Evaluation – with respective objectives and corresponding strategic objectives, activities, desired results and indicators – the NAP aimed to contribute to the overall goal of achieving sustainable peace and a just society. A highly consultative and collaborative process that harnessed women's participation, leadership capacity, resiliency power, and ensured their protection, the NAP addressed both strategic and practical needs of conflict-affected women and girls. A core feature within the NAP was also the recognition of sexual violence survivors and the need to provide varied required support. However, CBR have not been directly mentioned therein. It is also pertinent to state that during this period, Nepal was among the

1 http://www.nepalmonitor.com/2011/07/recording_nepal_conf.html.

113 nations that signed the 'Declaration of Commitment to end Sexual Violence in Conflict' in 2014: pledging to hold perpetrators to account and provide better support to victims.²

Today, after five years of NAP implementation, assessment and reviews indicate that the NAP "played a crucial role in guiding discussions on Women, Peace and Security (WPS) in the country".³ NAP implementation focused primarily on awareness raising, advocacy and lobbying on NAP indicators, while programme activities addressed participation and promotion, and to a comparatively lesser degree, protection and prevention, and relief and recovery. However, various monitoring reports and desk reviews have determined that the broad scope of the NAP and the failure to allocate budgets caused its implementation to have significant inadequacies. In addition, inadequate ownership among government agencies, absence of focused program planning and result oriented time-bound targets, failures in the implementation process and assigned responsibilities, the focus at the central level, limited civil society organization (CSO) space, and absence of accountability proved to be major structural and procedural shortcomings. However, perhaps the most critical gap has been the limited focus on conflict-affected women and girls and former combatants, and the inability to support CRSV victims/survivors, and CBR. Whether the neglect of CRSV victims/survivors has been deliberate or inadvertent is ambiguous, but reviewing the state of affairs during the NAP implementation period, a number of causal factors may be identified: (i) Lack of knowledge on their existence, to denial of their existence; (ii) Non-recognition and non-prioritisation of CRSVs victims/



2 <https://www.gov.uk/government/news/113-countries-pledge-action-to-end-sexual-violence-in-conflict-timetoact> (24 September 2013)

3 Desk Review Report of NAP Implementation on UNSCRs 1325 & 1820 related documents. Submitted to Ministry of Peace and Reconstruction by 1325 Action Group. (Draft Report)

survivors; (iii) Lack of know-how of stakeholders on how to handle CRSV cases; (iv) Unwillingness of stakeholders to 'ruffle any feathers'; (v) Politicisation for vested interests; (vi) Lack of victims and witness protection; (vii) Pervasive impunity of perpetrators; and (viii) Inadequate lobbying for CRSV victims/survivors and CBRs.

2.2 TRANSITIONAL JUSTICE: STATE RECOGNITION OF VICTIMS/SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE (CRSV) AND THE TRUTH AND RECONCILIATION COMMISSION

Efforts to support conflict-affected women and girls reveal that while physical and mental torture is more openly discussed, sexual violence episodes and their ensuing impacts such as physical and mental trauma, and CBR generally remain concealed and under-reported. Whether victims/survivors choose to disclose their victimisation, or fear further victimisation and traumatisation, many are also inhibited and convinced sharing will not lead to receiving any support.

The recognition of CRSV victims/survivors has been a primary hurdle towards ensuring their support. Research has been conducted by CSOs⁴ and United Nations agencies, such as UNFPA and UNICEF, ranging from qualitative and case study based to district specific research. Nevertheless, the government is yet to acknowledge research findings and identified CRSV victims/survivor numbers, due to diversity in research methodologies. Moreover, the risk of duplication endures, as there has been no endeavor towards their standardised documentation, and the exact magnitude of CRSV victims/survivors and CBR remains unknown.

A five-member Truth and Reconciliation Commission (TRC) was constituted by the decision of the government's Council of Ministers, dated 10 February 2015, in accordance with the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2014.

The TRC was assigned a core responsibility to "Investigate incidents of gross violations of human rights, find out and record the truth and publish it for the general public".⁵ The definition of "Gross violations of human rights" includes rape and sexual violence. To date, as many as 45,000 cases of human rights violations committed during the armed conflict, have been registered with the TRC; nevertheless, the exact number of CRSV cases is undetermined. Moreover, efforts by the TRC,

CASE 1:

In a *terai* district of Far Western development region, Mr. Joshi* approached the Local Peace Committee (LPC) – a district level government structure established to support conflict-affected victims – enquiring on availability of support for his wife who had undergone sexual violence during the conflict period. The LPC directed Mr. Joshi to the Chief District Officer (CDO) for possibilities as it was unable to support due to the absence of government guidelines pertaining to sexual victims/survivors. However, here again his attempts proved futile. As the government had not recognised CRSV victims/survivors, nor developed guidelines, the CDO was helpless. The case was closed, and is pending until the Government of Nepal recognises CRSV victims/survivors, and determines support strategies.

Case narrated to author by LPC during a Focus Group Discussion conducted during NAP Mid-Term Monitoring, 2014.

4 Saathi, IHIRICON, ICTJ, Jagaran Nepal, INSEC, Human Rights Watch, NCCR, HIMRIGHTS, World Vision Advocacy Forum UNICEF and UNFPA, etc.

5 <http://www.trc.gov.np/about-us>. Reviewed on 28 February 2017.

calling for CRSVs to register cases have been met with scepticism, with victims claiming, “What will come of it?; We will only report, but no further action will be taken; It is already 10 years since the Comprehensive Peace Agreement – what will they do?”. Such scepticism is further fuelled by theories that TRC members being politically appointed will influence its ability to accomplish assigned tasks. Another critical factor to be considered is the limitation for filing a complaint on rape. Although the earlier 35-day statute was extended to 180 days, until the statute of limitation is revoked, CRSVs cannot access justice.



2.3 INTERNATIONAL MECHANISMS FOR ADDRESSING CONFLICT-RELATED SEXUAL VIOLENCE (CRSV) IN NEPAL

The recommendations of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee, General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, highlights that State parties “Prohibit all forms of gender-based violence by State and non-State actors”⁶ and “Prevent, investigate and punish all forms of gender-based violence, in particular sexual violence perpetrated by State and non-State actors.”⁷ Recommendations also include the need for collection of standardised data on sexual violence, as well as ensuring medical, legal and psycho-social support services to CRSV victims/survivors. Moreover, the Committee recommends that with regard to the women, peace and security (WPS) agenda, State parties “Enhance collaboration with civil society and non-governmental organizations working on the implementation of the Security Council agenda on women, peace and security.”⁸

3. CONFLICT-RELATED SEXUAL VIOLENCE (CRSV) VICTIM/SURVIVOR NEEDS TO BE ADDRESSED: STRATEGIC AND PRACTICAL NEEDS

Ongoing efforts to frame NAP Phase II, is providing a window of opportunity to support CRSV victims/survivors and CBR. Support packages to CRSV victims/survivors and CBR identified and confirmed through systematic research and supported through the NAP, can to some extent bring closure to victims’ anguish, and ensure perpetrators are brought to justice. It will also be an acknowledgement by all conflicting parties of the humanitarian costs of the insurgency on women and children, and a step towards ensuring social harmony and prevention of future occurrences. The NAP Phase II is expected to support victims/survivors, and potentially collaborate with TRC, for provision of comprehensive support in relief, recovery and access to services, along with psycho-social support.

Understanding the mental, physical, social and societal level of impacts that CRSV victims/survivors and CBR encounter, the current paper suggests the need for comprehensive support packages that address both practical (immediate) and strategic (long-term) needs.

Step 1: Defining CRSV victims/survivors and children born out of rape in order to provide support through national processes

Steps to support CRSV victims/survivors and CBR demand definitions agreed upon by government, CSOs and CRSVs representatives. Taking the international definition – “Conflict-Related Sexual Violence refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage and any other form of sexual violence of comparable gravity perpetrated against, women, men, girls or boys that is directly or indirectly linked to a conflict.”⁹ – may be the first step, which however may require to review and revision as per the national context.

An agreed upon definition will allay potential disputes at a later stage. There is a general perception that CRSV cases will generally occur from conflicting parties, namely, security forces and Maoists. Care should be taken to ensure within the definition that perpetrators may be from within the family, neighbours, communities, as well as from conflicting parties. An initial proposal within this paper includes the following:

6 Source: <http://www.ohchr.org/documents/hrbodies/cedaw/gcomments/cedaw.c.cg.30.pdf>.

7 *Ibid.*

8 *Ibid.*

9 Report of The Secretary General on Conflict-Related Sexual Violence. 20 April 2016.

- Victimised by security forces.
- Victimised by Maoist insurgents.
- Victimised by family members, neighbours and community members.
- Victimised by strangers.

Step 2: Determining a timeframe

A core issue to be focused on is the timeframe of the victimisation. Differing versions exist on whether it is only victims of the armed conflict period who should be identified, or whether the pre- and post-conflict periods should also be a determining factor during identification. This paper suggests that all CRSVs within the period of 1996 to 2006, the beginning of the conflict to its formal conclusion, should be included. In addition, post-conflict victimisation occurring two years from formal conflict conclusion, should also be included. Furthermore, other forms of CRSVs occurring in the *terai*, during the *Madhesh Aandolan* should also be included.

Step 3: Identification of CRSVs

The most challenging feature in this initiative will be identification of CRSVs. In a society where patriarchal socio-cultural values determine the outlook towards women and girls, and their virtue is determined by her virginity before marriage, and monogamy during marriage, for those courageous enough to defy these norms, every endeavour must ensure their risks are not in vain. Past anecdotal evidence of victims/survivors who divulged cases, shows that families and communities further victimised them, underscoring the need for stringent confidentiality measures.

Teams of experts, including representatives of CRSVs, should be trained and deployed across the nation for identification purposes. During such identification processes, the needs of CRSV victims/survivors and CBRs – ranging from criteria for confirmation of victimisation, privacy and confidentiality, immediate and long-term needs – must be closely assessed. Each deployed team should comprise medical and psycho-social experts, with the ability to interview and capture information, and investigate. Measures should be taken to ensure identified and confirmed victims receive immediate support post-interview, to dispel fears that “government will only question and not support”. A defined timeframe should be provided on the other possible forms of support that will be provided. In cases pertaining to CBR, the needs of the child and family must be determined and provided.

Step 4: Practical needs of CRSVs

Over 11 years has passed since the formal conclusion of the insurgency. During this period the number of CRSV victims/survivors and CBR and their state of affairs remains unknown. While their identification and documentation is critical, and already delayed, a comprehensive package must be taken alongside documentation. Research ethics prevent the support of victims during interviews. However, review of research on CRSVs conducted over the years indicates that victims/survivors are repeatedly interviewed without receiving any form of support. To avoid such instances, this paper suggests that victims/survivors – upon being confirmed – are provided comprehensive packages. These packages can be delivered under the guise of being health camps, awareness programmes, or other socio-economic development packages instead of being openly targeted at CRSV victims/survivors. This is in order to avoid scrutiny and possible ostracisation by family and community members. Suggested possible practical needs are:

- 4.1 *Psycho-social counselling*: Psycho-social trauma and depression can be long-term and damaging to the victim/survivor, as well as his/her family members. Measures for dealing with victimisation may differ from person to person, and families. In cases where the victim/survivor reveals a case, some families may be supportive, while others may blame them or a CBR, thereby perpetuating the victimisation. Where CBRs are present, situations may vary from supportive family, and forced migration due to social ostracisation, to inability to obtain citizenship for a child. Irrespective of the type of case, counselling is identified as a core requirement for cathartic purposes. At times, counselling may go beyond the victim/survivor, to their family members as well.
- 4.2 *Food, shelter and clothing*: Immediate basic needs for victims of CRSV are a key requirement. In the case of Nepal, the time-lapse may make this seem redundant, but in cases where traces of traumatised and inability to move beyond the victimisation are evident, this may become essential (especially when the remoteness of and poverty in some conflict-affected regions are considered). In some cases, shelter may also be required, under which circumstances government and CSO-managed Safe Houses need to be prepared in advance.
- 4.3 *Access to general health services*: Impacts of sexual violence can lead to debilitating health concerns: ranging from psychosomatic to physical disabilities, and reproductive health complications. Linkages with existing government and CSO services, or referrals or support through mobile camps should be available to facilitate their access to services.
- 4.4 *Access to reproductive health services*: Reproductive health impacts from CRSV can be long-term, such as sexually transmitted infections (STIs), problems with reproductive organs, prolapsed uterus and inability to conceive. Such health concerns may require long-term treatment that victims/ survivors cannot afford. The collaborative effort of government and CSO entities must ensure that the required care and support is regularly provided.
- 4.5 *Access to economic opportunities*: Victims/survivors of CRSV are often impacted in their overall lives. One of the major impacts is manifested in their ability to work and earn a living. Support in micro-credit, income-generating activities, and small enterprises – depending on the local scenario – and linking with markets, can provide potential openings.
- 4.6 *Ensuring privacy and confidentiality*: Many CRSV victims/survivors may be unwilling to share their cases or report, either because they have started new lives, are unwilling to reopen old wounds, due to a sense of futility, or even a fear of retribution. The risk of social stigmatisation runs high in a society where rape victims often face blame. CBRs may also face similar conditions. Under such circumstances maintaining the privacy and confidentiality of victim/survivor cases should remain a priority, with measures devised to ensure further damage does not transpire. Support mechanisms must ensure victims/ survivors' access to services remains undetected by others.
- 4.7 *Legal support*: Legal support must come as a second phase of support, following relief and recovery. Legal organizations should then be engaged to follow up on cases for victims/survivors and CBRs to access justice, in coordination with the TRC.
- 4.8 *Victim and witness protection*: A few cases shared during workshops indicate that some victims/survivors may be aware of a perpetrator's identity. They may also have witnesses who may be able to support them. Yet threats of retribution, and use of financial and political influence may be preventing them from demanding justice. Efforts to protect both victims and witnesses must be initiated as components of research and investigations.

Step 5: Ensuring appropriate human and budgetary resources:

The process of researching, identifying and providing support to CRSV victims/ survivors and CBR will be a challenging and costly process. The costs range from researchers, counsellors, experts, and investigators to the provision of comprehensive packages. Both short-term and long-term initiatives must be acknowledged and budgeted from the outset.

Step 6: Lobbying for political support:

Political support will play a critical role in ensuring CRSV victims/survivors' ability to access justice and support. Lobbying by government and non-government stakeholders with all political parties – from central to grassroots level – will be vital in ensuring CRSV victims/survivors are identified and able to get support. Investigation endeavours must not be turned into a 'witch-hunt' of a particular political party: a demand for justice and compensation to victims/survivors, and bringing the perpetrator to justice should be the emphasis.

Step 7: Capacity development (including media, conflict-affected groups, government and CSO entities):

CRSV victims/survivors and CBR are concerns that few in the government and CSO sector possess in-depth knowledge of. Efforts to build holistic support to CRSV victims/ survivors and CBRs require clear understanding amongst representatives from various sectors, leading to positive mindset towards their needs.

4. CONCLUSION

Conclusions reached by this paper are as follows:

- A coordinated and collaborative effort whereby government, CSOs, external development partners (EDPs) and Nepali citizens align efforts to ensure support to victims/survivors of CRSVs will be critical. Whether it is knowledge, experience, expertise, best practices, or human and financial resources (from within the country or other war affected nations), support to CRSV victims/survivors should be a consolidated effort; not a public relations contest between actors as to who does what and contributes how much.
- Research initiatives immediately initiated by the government, must simultaneously work at identifying and providing support to CRSV victims/ survivors. Past experiences of support to conflict victims underscore the risk of false claimants; for which stringent retributory measures should be announced. To circumvent such threats, indicators and criteria are fundamental to ensure CRSV victims/survivors and CBRs from within the stipulated timeframe, and with conflict as a causal factor, are identified.
- Learning from other nations' efforts at supporting CRSV victims/survivors and CBR, along with national CSO knowledge and experience, can facilitate the process. The government's close and consistent coordination with EDPs and CSOs – through apportioning of roles and responsibilities – can ensure wider outreach and enhanced qualitative support.

- Government efforts to reach CRSV victims/survivors must be widely disseminated to reach grassroots levels; as many CRSV victims/survivors and CBRs live in remote areas or are out of reach of information. Collaboration and coordination with national and local CSOs, conflict-affected groups and platforms, human rights groups and activists will facilitate victim identification. However, the process should also instill zero tolerance for violation of privacy of any victim averse to sharing information. The need to work closely with media houses, ensuring that journalists understand and respect victim/survivor privacy, should be the focus. Any effort by individual, organizations or parties to manipulate cases for promotion of vested interests should be circumvented.
- CRSV victim/survivor and CBR support will be a costly initiative, with investment made on varied facets for support and empowerment. This investment must be accepted as critical to address the damage and suffering borne by the individual and their family: long-ignored, and considered non-existent and 'collateral damage'.
- Close monitoring and evaluation, and regular tracking of efforts and budgetary spending must be ensured. Past experiences indicate that by the time a target beneficiary is identified and reached there is little resource remaining. To address this, transparency on the availability of resources for CRSV victims/survivors is needed and better planning for allocations to individuals must take place in advance. Flexibility to revise allocations as per victim requirements is also vital. Accountability of efforts – of all stakeholders – must be consistently measured through a mechanism established for this purpose.
- While the above represent immediate support, the strategic interests of CRSV victims/survivors should form part of the prevention and protection strategy. CRSV should be empowered through group and leadership programmes, and can become voices to prevent future such occurrence.





4

ANNEXES

Annex 1:

Regional Expert Group Meeting on addressing the needs of sexual violence survivors and children born out of rape in National Action Plans on Women, Peace and Security in Asia-Pacific



1. SUMMARY CONCEPT NOTE AND OBJECTIVES

UN Security Council Resolution 1325, unanimously adopted in October 2000, stressed the importance of the equal participation and full involvement of women in all efforts for maintaining and promoting peace and security. In the years since, seven further resolutions on women, peace and security (WPS) have been adopted, creating a robust framework for the implementation of the WPS agenda and reinforcing existing global commitments, treaties and conventions on women's rights including the Convention on the Elimination of all forms of Discrimination against Women (1979), and the 1995 Beijing Declaration and Platform for Action. To deliver these commitments at the national level, the UN has encouraged member states to adopt National Action Plans on WPS (NAPs-WPS) as one of a range of mechanisms that implements the resolutions and monitors the progress of the WPS agenda. As of December 2016, 64 countries have adopted NAPs, including 9 in the Asia-Pacific region, with several currently in development.

In July 2016, UN Women and the Government of Japan convened an Asia-Pacific Regional Symposium on National Action Plans on Women, Peace and Security in Bangkok, Thailand, gathering over 80 participants from 17 countries, representing government, civil society, independent institutions, academia and international organizations to examine the successes and challenges of these NAPs-WPS to date.¹

Among the Symposium conclusions, participants recognized that NAPs-WPS have yet to deliver the practical and strategic outcomes that are most needed by women and girls affected by conflict. It was agreed that there is a need to re-orient NAPs-WPS to the specific needs and rights of women and girls, putting their wellbeing and security at the center of these plans. This is particularly urgent for specific groups living in the most vulnerable situations such as survivors of sexual violence during conflict and children born out of rape. Targeted and evidence-based interventions are needed to



Pinky Singh Rana:

“it is critical to ensure that the money allocated through the National Action Plan isn’t only spent at the central and district levels, but that it reaches the survivors themselves”

¹ Report of the Asia-Pacific Regional Symposium on National Action Plans on Women, Peace and Security available at: <http://asiapacific.unwomen.org/en/digital-library/publications/2016/12/nap-report>

address both their strategic needs such as discrimination and stigma, as well as their practical needs including access to health, psychosocial services, livelihoods and education. While sexual violence is addressed amongst NAPs-WPS in Asia-Pacific, the primary focus of NAPs-WPS in the region is on the whole population of women affected by conflict. Furthermore, targeted interventions are not usually developed to address the needs of sexual violence survivors and many activities have failed to be implemented. In addition, provisions to address the needs of children born from rape in conflict are generally overlooked.

To critically engage with these issues, UN Women and the Government of the United Kingdom Foreign & Commonwealth Office convened a joint Expert Group Meeting - Addressing the needs of sexual violence survivors and children born out of rape in NAPs-WPS on 12 January 2017 in Bangkok. This discussion brought together global and regional experts, civil society stakeholders, as well as representatives from UN entities, involved in the development of national action plans.

The **Expert Group Meeting** aimed to:

- a) Identify the extent to which NAPs-WPS have incorporated the practical and strategic needs of sexual violence survivors and children born out of rape, focusing on Nepal, Timor-Leste, Indonesia, and the Philippines through consideration of an expert discussion paper developed for the EGM;
- b) Explore the potential strategies and initiatives for policymakers to address the needs of sexual violence survivors and children born out of rape, including examples of Nepal, Indonesia, the Philippines, Timor-Leste, Sri Lanka and Myanmar;
- c) Contribute to the development of a comprehensive analytic report on considerations for responding to the needs of SGBV survivors and children born out of rape in NAPs-WPS in the Asia-Pacific region for the future use of policymakers and practitioners.



**Dr. June Caridad
Pagaduan-Lopez:**

“women should be mobilized not just in the role of witnesses, but in order to speak for themselves”.

2. AGENDA OVERVIEW

9.00am	UN Women Introduction: Hanny Cueva-Beteta, Regional Adviser, Governance, Peace and Security.
9.15am	Opening Remarks by British Embassy in Bangkok: Mr. Simon Lever, Political Counsellor.
9.30am	Introductions and overview of agenda and objectives
Topic 1: Review of existing NAPs-WPS and their responsiveness to the needs of sexual violence survivors and children born out of rape	
10.15am	<p>Presentation of Discussion Paper and group discussion: Dr. Aisling Swaine</p> <p><i>To what extent have NAPs-WPS been responsive to the specific needs of sexual violence survivors and children born out of rape? The cases of Nepal, Timor-Leste, Indonesia, and the Philippines.</i></p>
Topic 2: The needs of sexual violence survivors and children born out rape in Nepal, Indonesia, the Philippines, Timor-Leste, Myanmar and Sri Lanka	
1.30pm	<p>Expert participant roundtable:</p> <p><i>Based on your expertise, what are the needs of conflict-related sexual violence survivors and children born out of rape in your country context or area of professional experience?</i></p> <p><i>Include examples with respect to health and psychosocial needs, housing and land, access to justice and transitional justice measures, economic and livelihood opportunities, and strategic needs including participation in decision-making and tackling stigma.</i></p>
Topic 3: Integrating the needs of sexual violence survivors and children born out of rape into future NAPs-WPS and policy frameworks.	
4.00pm	Summary and presentation of overarching themes for incorporating the needs of sexual violence survivors and children born out of rape into future and second generation NAPs-WPS and other national policy frameworks.
5.30pm	Wrap up and close.

3. PARTICIPANT LIST

Participant List
Dr. Aisling Swaine Director of the Center on Gender Equality in International Affairs and Associate Professor of Practice, George Washington University, USA. IRELAND
Dr. June Caridad Pagaduan-Lopez Faculty of Medical Sciences, University of the Philippines. PHILIPPINES
M. Manuela Leong Pereira Director of ACbit TIMOR-LESTE
Noraida Abo UNYPhil PHILIPPINES
Shyamala Gomez Country Director FOKUS WOMEN SRI LANKA
May May Pyone Executive Director, NGO Gender Group MYANMAR
Pinky Singh Rana Saathi NEPAL
Ayu Wahyuningroem Political Department, University of Indonesia INDONESIA
Atikah Nuraini Learning Coordinator, Asia Justice and Rights (AJAR) INDONESIA
May Sabe Phyu Director, Gender Equality Network (GEN) MYANMAR
Julia Marip Women's League of Burma (WLB) MYANMAR

Participant List
Simon Lever Political Counsellor, British Embassy in Bangkok UNITED KINGDOM
Hanny Cueva-Beteta Regional Advisor, Governance, Peace and Security, UN Women PERU
Carla Silbert International Consultant on Conflict-Related Sexual Violence in Asia-Pacific, UN Women AUSTRALIA
Maricel Aguilar National Project Officer-Support to the Implementation of the Bangsamoro Peace Agreement and Gender-Sensitive Transitional Justice, UN Women Philippines PHILIPPINES
Ornwipa Rugkhla Regional Campaign Coordinator, Ending Violence against Women, UN Women AUSTRALIA/THAILAND
Vipunjit Ketunuti Country Programme Coordinator – Thailand, UN Women THAILAND



Atikah Nuraini:

“We must deal with the past, and understand the connections to present violations and intergenerational impacts”

4. EGM OVERARCHING THEMES

The Expert Group Meeting on Addressing the Needs of Sexual Violence Survivors and Children Born out of Rape in National Action Plans on Women, Peace and Security, held in Bangkok, Thailand on 13 January 2017, highlighted that:

- Approaches to conflict-related sexual violence survivors and their children must ***define victims/survivors within the local context***, reflecting the ***multiple identities*** of victims/survivors (female heads of households, victims/survivors with disabilities, ex-combatants, refugees and IDPs, and victims/survivors of different ethnic and religious groups), ***and their children (including children born of sexual violence) in order to appropriately respond to their needs***;
- Initiatives to ***build the data and evidence-base*** of victims/survivors and their children in Asia-Pacific contexts should be adopted both within NAPs, but also through other initiatives, and must ***guarantee ethical research methods are used***;
- ***Stigma affects women and children victims/survivors in all contexts***, but the nature of this stigma and responses to it ***must reflect the cultural, social and religious realities of each context***;
- ***Strategies to address conflict-related sexual violence may be through inclusion in a NAP-WPS and through justice responses, but also through alternate mechanisms, policies and plans***, (including those on VAW) to engage in multiple tracks that address the needs of victims/survivors and account for the ***political sensitivity*** of conflict-related sexual violence in many contexts;
- NAPs-WPS and other mechanisms and responses to the needs of victims/survivors should ***be cohesive and adopt a rights-sensitive, multi-sectoral approach to address the practical needs*** (including health and psychosocial support, economic opportunities and safety and security), ***and the strategic needs*** of victims/survivors;
- Government, civil society, service providers, media, faith leaders are ***all key actors*** in delivering holistic responses and ***implementing ethical services that support community cohesion***;
- Ensuring that ***services which respond to victim-survivor needs are appropriately costed, financed and resourced*** requires attaching budgets to all action plans and policies, and promoting cooperation between Ministries and other Government agencies to resource complementary services.





Annex 2:

Nepal Expert Group Meeting on addressing the needs of sexual violence survivors and their children in Nepal's second National Action Plan on Women, Peace and Security



1. SUMMARY CONCEPT NOTE AND OBJECTIVES

In January 2017 UN Women and the Government of the United Kingdom Foreign & Commonwealth Office convened a joint Regional Expert Group Meeting (Regional EGM) on addressing the needs of sexual violence survivors and children born out of rape in National Action Plans on Women, Peace and Security (NAPs-WPS). The Regional EGM identified that NAPs-WPS and other national responses to conflict-related sexual violence (CRSV) victims/survivors should adopt a rights-sensitive, multi-sectoral approach to address their practical and strategic needs. It was noted that local realities including the cultural, social and religious context of stigma towards survivors must also be considered. These conclusions highlighted the need for country-specific approaches to addressing the needs of survivors when developing a NAP-WPS.

Nepal's National Action Plan on the Implementation of the United Nations Security Council Resolutions 1325 & 1820 (NAP-WPS I) adopted in 2011 included measures to recognize and respond to the needs of CRSV victims/survivors. The NAP-WPS integrated a focus on the delivery of access to justice for sexual and gender-based violence (SGBV) by establishing mechanisms for investigating and prosecuting incidents of SGBV; providing prompt and free legal service to women and girls affected by conflict; and ending impunity by addressing SGBV cases during the conflict and transition periods. It also provided for addressing the special needs of conflict-affected women and girls including through prompt and free medical service and psycho-social and legal counselling to women and girl victims of SGBV during conflict; establishing temporary residential homes for women and girls at risk; and strengthening the Women and Girls Service Centers.

However, despite the inclusion of these measures, evaluations of the NAP-WPS have identified significant gaps in implementation and noted key opportunities to improve the practical and strategic benefits received by women and girls impacted by CRSV. The Secretary-General's Report on Conflict-related Sexual Violence 2015 echoed these findings, encouraging the Government to remove barriers that may prevent conflict-related persons from gaining access to justice, including by accelerating the implementation of the second NAP-WPS (NAP-WPS II). Among the challenges to addressing the needs of survivors, a lack of research and comprehensive data collection has been highlighted, and difficulties in effectively localizing initiatives to ensure that women in the most vulnerable situations receive benefits from the NAP-WPS have been found. In addition, the unique needs of children born out of rape in conflict, and CRSV victims/survivors who may also be ex-combatants, women living with disabilities, or women from ethnic or religious minorities have still to be considered.

As Nepal is currently entering the development phase of its NAP-WPS II and has expressed a commitment to addressing the needs of CRSV victims/survivors in this plan, a National EGM in Kathmandu was held on 23rd February, 2017 to examine these issues. The discussion applied the learning from the NAP-WPS I, together with the findings from the Regional EGM, to identify strategies to effectively respond to the needs of CRSV victims/survivors and their children.

The **Nepal Expert Group Meeting** aimed to:

- a) Consider the practical and strategic needs of CRSV victims/survivors and their children in Nepal, including health and psychosocial support, safe housing, access to justice, economic opportunities, and combatting stigma;

- b) Reflect on the extent to which Nepal's NAP-WPS I responded to the practical and strategic needs of sexual violence victims/survivors and their children, and identify opportunities and strategies for increased implementation of responses to victim/survivor needs in the NAP-WPS II;
- c) Document inputs and findings for a Case Study Report on addressing the needs of CRSV victims/survivors and their children in Nepal's NAP-WPS II for the future use of policymakers and practitioners.

2. AGENDA OVERVIEW

9.00am	Welcome by UN Women: Wenny Kusuma, Country Representative
9.15am	Opening Remarks by Ministry of Peace and Reconstruction: Suman Prasad Sharma, Secretary
9.30am	Opening Remarks by British Embassy in Kathmandu: Katherine Smitton, Deputy Head of Mission
Topic 1: Overview of regional and national approaches and challenges in addressing the needs of conflict-related sexual violence victims/survivors and their children	
9.45am	<p>Regional Overview on CRSV and NAPs-WPS: Carla Silbert, International Consultant on Conflict-related Sexual Violence in Asia-Pacific.</p> <p><i>Responding to the needs of conflict-related sexual violence victims/survivors and their children: Challenges and opportunities in Asia-Pacific.</i></p>
10.15am	Desk review on conflict related sexual violence in Nepal: Sama Shrestha, Unit Manager – Women, Peace and Security & Humanitarian Action
11.00 am	Presentation of Nepal Case Study: Pinky Singh Rana, Saathi.
11.20 am	<p>Group discussion - Challenges and priorities for identifying survivor needs:</p> <ul style="list-style-type: none"> • <i>What are the challenges in understanding conflict-related sexual violence victim/survivor needs in Nepal? What are the interventions that should be targeted at the individual and community levels?</i> • <i>What are the social, cultural and religious barriers that cause stigma and create difficulty in engaging with victims/survivors of sexual violence from different groups and regions in Nepal?</i> • <i>What are the different needs and considerations for CRSV victims/survivors who may also be living with disabilities, ex-combatants, from minority groups, placed in other vulnerable situations, and for children of survivors?</i>

Topic 2: Priority areas for Nepal's NAP-WPS II	
1.30pm	<p>Presentations on the needs of sexual violence victims/survivors and their children in relation to:</p> <ul style="list-style-type: none"> • Access to justice and transitional justice measures – Jaya Luintel and Sarita Thapa • Health and psychosocial needs – Bina Dahal • Economic opportunities and employment – Srijana Shrestha • Education and safe housing – Radha Paudel • CRSV documentation – Kirti Chaudhary
2.30pm	<p>Group discussion - How can responses to the needs of victims/survivors be implemented in the NAP-WPS II in relation to:</p> <ul style="list-style-type: none"> • Group 1: Access to justice and transitional justice measures • Group 2: Health and psychosocial needs • Group 3: Economic opportunities and employment • Group 4: Education and safe housing • Group 5: CRSV documentation and research
4.30pm	<p>Summary of overarching themes and recommendations for next steps to incorporate the needs of sexual violence victims/survivors and their children into the second National Action Plan on UNSCRs 1325 and 1820.</p>
5.00pm	Close



3. PARTICIPANT LIST

Name	Organization
Bina Dahal	Nispakshya
Kirti Chaudhary	Conflict Victim Common Platform
Dr. Bisika Thapa	CARE Nepal
Bishnu Maya Bhusal	Nepal Law Campus
Srijana Shrestha	Conflict Victim Common Platform
Upendra Adhikaryi	NAP Phase II Drafting Committee
Jaya Luintel	The Story Kitchen
Madhav Pradhan	CWIN
Pinky Singh Rana	SAATHI
Raghunath Thapa	Ministry of Peace and Reconstruction
Rajin Rayamajhi	WHR
Kirti Thapa	UN Women
Bijaya Prasai	DWC
Bharati Silwal Giri	Freelancer
Sarita Thapa	The Story Kitchen
Bhumidatta Paudel	NAP Phase II Drafting Committee
Indu Panta	CARE Nepal
Chanda Rai	Sankalpa
Dr. Kiran Rupakheti	National Planning Commission
Nicole Hosein	UN RCO
Wenny Kusuma	UN Women
Katherine Smitton	British Embassy
Carla Silbert	UN Women Regional Office for Asia and the Pacific
Radha Paudel	Action Works Nepal
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Sharu Joshi Shrestha	UN Women
Karuna Onta	DFID
Swarnima Bhandari	British Embassy
Suman Prasad Sharma	Ministry of Peace and Reconstruction
Chandra K Pokhrel	Ministry of Peace and Reconstruction

Name	Organization
Dip Magar	UN RCO
Amrita Lamsal	IHRICON
Ganesh Chaulagai	UN Women
Sama Shrestha	UN Women
Sumiran Shrestha	UN Women
Smriti Gurung	UN Women
Hem Rai	UN Women

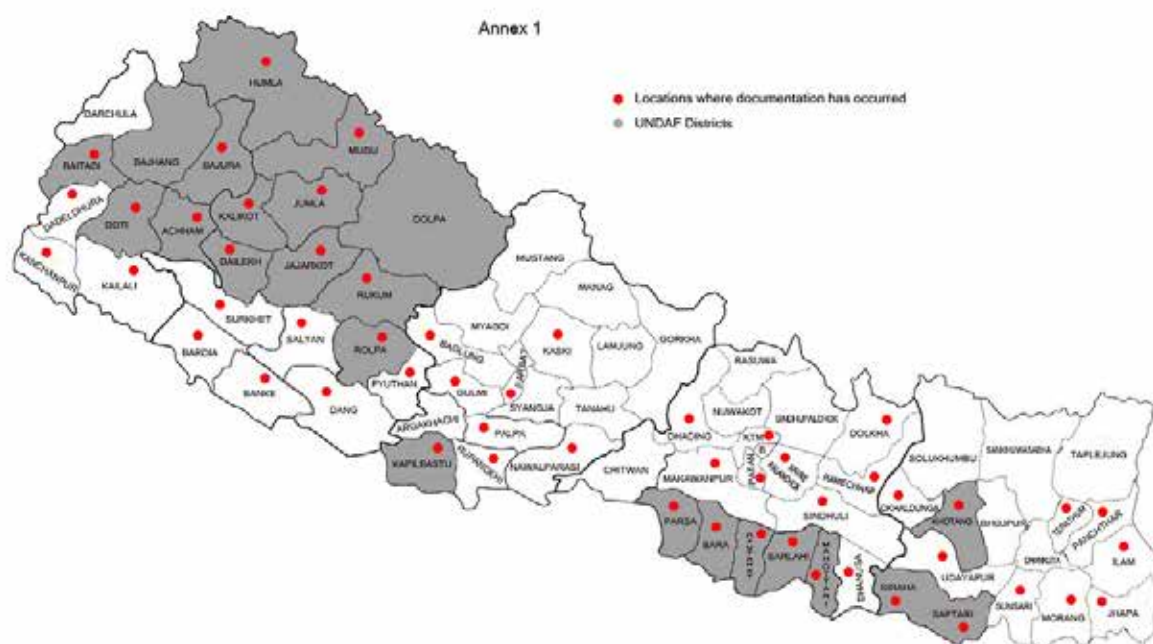


4. KEY THEMES AND HIGHLIGHTS FROM THE PRESENTATIONS AND DISCUSSIONS

THEME 1: DOCUMENTATION AND PATTERNS OF CRSV IN NEPAL

Sexual violence is widely understood to have occurred during the conflict in Nepal. However, documentation has been scattered and not conducted in a comprehensive or systematic way. A UN Women desk review found that documentation conducted by NGOs and UN agencies has occurred in 55 districts.

Map of Documentation



Districts of Nepal in which documentation of CRSV has taken place. From the "UN Women desk review on conflict-related sexual violence in Nepal", presentation of Sama Shrestha, Unit Manager – Women, Peace & Security and Humanitarian Action, UN Women Nepal.

Patterns of CRSV identified through the desk review include that incidents mostly occurred in victims' houses, neighbourhoods, or communities. The desk review found that there was a high prevalence of CRSV close to army barracks, army checkpoints and in areas of Maoist strongholds. There was also a high incidence of 'conflict wives' around army barracks. An increase in sex work during the conflict and especially around army barracks was also noted. Low or non-presence of men in households was a major factor that made women especially vulnerable to CRSV. CRSV was often used to punish women and their families for their connection to either side of the conflict, and especially if they were a supporter of a side or a combatant. Marginalized groups were found to be more vulnerable to CRSV. It is estimated that one third of all CRSV victims were girls, some younger than 15.

National actions to address CRSV in Nepal have included:

- National Action Plan on UNSCRs 1325 and 1820
- Nepal Police adopted Gender Policy and Code of Conduct Against GBV in 2012
- Nepal Army adopted directives on zero-tolerance to violence against women
- Department of Women and Children have been operating service centers and temporary safe homes as well as free legal and psychosocial counselling
- Endorsement of Sexual Harassment at the Workplace Act
- Supreme Court directive order to amend the statutory limitation provision on rape and tabled the draft bill in parliament
- Endorsement of Gender Equality Act
- Free Legal Aid Service



THEME 2: IMPACT OF CRSV IN NEPAL



They would pour cold water over my head. They used to touch my breasts and tear the clothes I was wearing.

They poked me with their guns, tangled my hair with a spiny stick. I was kept like this for about 30 days.

I haven't received any relief yet. I was very young - 13 years old -
"What did I do wrong?"

"Lived Experiences": From the presentation of Jaya Luintel, The Story Kitchen.

Impacts of CRSV that have been documented include:

- **Physical impacts:** unsafe abortions, children born of rape, STDs, HIV/AIDS, gynaecological problems;
- **Psychological impacts:** depression, anxiety, PTSD, memory loss, sleep problems, loss of appetite, nightmares, dissociation, suicidal thoughts, suicide;
- **Social impacts:** stigmatisation, child marriage, school drop outs, rise in sex work, trafficking of women.

Manifestations of stigma in Nepal include: fear of husband leaving; perceptions that the victim/survivor is promiscuous; perceptions that women should not speak publicly about sexual violence because their communities will talk about them; maintaining silence so that children do not come to know their mother has been raped; discrimination in religious settings, including that the offerings of sexual violence victims/survivors may not be accepted in temples.

THEME 3: GAPS AND CHALLENGES IN ADDRESSING CRSV IN NEPAL



I was working in the paddy field. They came and inquired about my son who I had sent to the Nepal Army for a job.

When I denied to give information they “spoiled my body”.

I haven't received anything from the government and my husband keeps saying that “it was my fault”. The only question that keeps coming in my mind is “was it because of my fault?”

“Lived Experiences”: From the presentation of Jaya Luintel, The Story Kitchen.

There has been a lack of documentation and reporting of CRSV and **the prevalence and impact of CRSV is not fully understood**. Fear and intimidation contribute to CRSV victims/survivors not identifying themselves.

There is a **lack of access to justice** for CRSV victims/survivors. **Support services are inadequately targeted**. There is a **lack of interim relief** and **no comprehensive reparations** have been offered to date.

Missing issues from addressing CRSV include that **LGBT and third gender people** have not been included. Issues such as guaranteeing **citizenship rights** for victims/survivors and their children have been entirely overlooked.

The **reasons for neglecting the needs and priorities of CRSV victims/survivors** include that there is a denial of their existence and a failure to prioritise their concerns. There are also **political barriers** to addressing CRSV, including the failure to combat the impunity of perpetrators and that stakeholders are unwilling to ‘ruffle any feathers’.

A major challenge in the implementation of the NAP-WPS I is that by the time target individuals and communities that have suffered the impacts of CRSV were identified and reached there were little resources remaining to support them. **While understanding of CRSV and advocacy for victims/survivors is being built at the central level**, minimal support and budgetary resources have been delivered to the victims/survivors themselves.

“Victims do not believe support will come, so why would they engage with researchers?”

THEME 4: PRIORITY ACTIONS IDENTIFIED BY PARTICIPANTS TO ADDRESS THE NEEDS OF CRSV VICTIMS/SURVIVORS



"The absence of war is not peace – the underlying causes of the conflict must be addressed and the women survivors must be included and receive education and safe housing to be able to play a role in peacemaking"

Radha Paudel,
activist and author

Access to justice and transitional justice measures must be advanced through the Truth and Reconciliation Commission (TRC) and other mechanisms. There must be **acceptance and acknowledgement of the occurrence of CRSV** in order for it to be adequately addressed by justice actors. Justice mechanisms should encompass a specialized court to prosecute CRSV cases, trained judiciary personnel, the use of in-camera hearings, and witness and victim protections.

Meeting the **health and psychosocial needs** of victims/survivors must include providing physical and mental health support, committing to deliver long-term care, providing mobile health camps with a focus on reproductive and sexual health, and establishing easy and functional referral mechanisms.

Economic opportunities and employment should ensure livelihood options can be sustained. Activities offered can include English language, computer skills and mobile account keeping. Initiatives that grant seed money for business enterprises can be explored.

The different needs and considerations for CRSV victims/survivors who may also be living with disabilities, ex combatants from minority groups or victims/survivors placed in other vulnerable situations must be better addressed. Female ex-combatants are doubly victimized and can face discrimination or violence from their husband or family members. Barriers created by **language, age, and caste** must also be accounted for in designing and implementing services and support.

Comprehensive reparations are fundamental to satisfying victim-survivor needs. This should include **rehabilitation** measures comprised of basic care and practical needs, including food, shelter, medical and legal services, psycho-social counselling, skill and leadership-building, networking, training, and start-up support for business enterprises. **Restitution** should encompass financial compensation, access to justice, citizenship rights for children born of sexual violence, legal reform in the security sector including of the Army Act, Military Code of Conduct and Police Act, implementation of TRC Guidelines, and ensuring victim and witness protection. Measures for

satisfaction should include information sharing, consultations with victims/survivors, recognition, documentation and memorials such as the peace monuments in Jumla, which can help healing and reconciliation. **Guarantees of non-repetition** must be made by ensuring political parties are held accountable, implementing stringent monitoring and evaluation processes, and promoting command responsibility in military structures.

Support and empowerment for CRSV victims/survivors and children born of sexual violence in the conflict are immediately required and demand **dedicated government resources**. This must be supported by **collaborative and coordinated consultations** between the Government of Nepal, victims/survivors, civil society organisations, donor partners and UN agencies, and ensuring the clear division of roles and responsibilities among actors during implementation. Planning of how resources for victims/survivors will be used should be made transparent in advance and should be flexible to be revised if needs change.

*All interventions must be flexible in order to address specific needs –
“one size does not fit all”.*

Nepal EGM Summary Conclusions

- Research has documented CRSV across Nepal but current data does not reflect its true prevalence during the conflict and post-conflict periods. This is largely due to social and institutional discrimination and stigma towards victims/survivors and the inaccessibility of support to encourage reporting. Barriers to victims/survivors accessing support such as literacy and language barriers must also be addressed.
- Children born of sexual violence have been largely overlooked in the documentation to date.
- Politicisation and patriarchal values have created obstacles in targeting a broad scope of CRSV victims/survivors.
- Issues missing entirely from the NAP-WPS I include citizenship rights and the inclusion of LGBT and third gender individuals and their needs. These should be prioritised for inclusion in the NAP-WPS II.
- There is a critical gap between central level policies to address CRSV and local level implementation - the needs of people at the grassroots have yet to be met. Effective mechanisms, NGOs and Government agencies at the local level must be identified and prioritised to deliver CRSV responses.
- Comprehensive reparations are a priority need and can be met through multiple initiatives including the TRC and other formal policy interventions, including under the NAP-WPS II.
- The NAP-WPS II can reflect state acknowledgement of CRSV and commitment to action. It can play a powerful role in shifting attitudes that stigmatise victims/survivors. For this to be effective, NAP-WPS II programmes must be impactful at the local level.
- There is a need to place victims/survivors at the centre of NAP-WPS II processes and other approaches to address CRSV. Victims/survivors must be engaged and lead in all stages of the design and implementation of CRSV response.

