

# **COMBATING SEXUAL VIOLENCE IN CONFLICT**

**RECOMMENDATIONS TO  
STATES AT THE GLOBAL  
SUMMIT  
TO END SEXUAL VIOLENCE IN  
CONFLICT  
(10-13 JUNE 2014)**

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# RECOMMENDATIONS TO STATES AT THE GLOBAL SUMMIT TO END SEXUAL VIOLENCE IN CONFLICT

## INTRODUCTION

The Global Summit to End Sexual Violence in Conflict, hosted by the United Kingdom, will take place in London from 10 to 13 June 2014. Over 150 states are expected to convene at the Summit, together with many non-governmental experts, human rights defenders and survivors of conflict-related sexual and gender-based violence from around the world. The Summit is an opportunity for states, in concert with civil society, to adopt and commit to implementing a practical and cohesive programme of action for combating sexual and gender-based violence in conflict: one that takes account of, and addresses the multiplicity of factors that make sexual and gender-based violence such a gross feature of modern day armed conflict, including global gender inequality, the continuing lack of women's participation in conflict resolution and peace processes, the prevailing culture of impunity for crimes of sexual and gender-based violence under international law, gaps in capacity to investigate and prosecute these crimes at the national level and inadequate national laws and policies.

The Summit will address these and other factors by:

- Presenting a new *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Basic Standards of Best Practice*;
- Making a range of commitments in the areas of investigating and prosecuting crimes of sexual and gender-based violence, developing National Action Plans to implement UN Security Resolution 1325, training peacekeepers and national military forces, enabling and protecting human rights defenders, particularly women human rights defenders, and enhancing international coordination and technical assistance;
- Engaging in plenary debates and parallel sessions on a range of issues, including documentation, investigation and prosecution of crimes of sexual and gender-based violence, advancing the UN Security Council's women, peace and security agenda and women's political participation, and addressing sexual and gender-based violence against men and children.

In this paper, Amnesty International sets out a series of recommendations to states participating in the Summit, urging them to take steps to entrench long-lasting commitments to tackling impunity for sexual and gender-based violence in conflict in domestic law and policy, enhance international coordination and technical assistance, and ensure the empowerment and participation of survivors of these serious crimes under international law.

See also Amnesty International's *Checklist for States at the Global Summit to End Sexual Violence in Conflict* (AI Index: IOR 53/007/2014). Amnesty International's delegation to the Summit will be available to discuss our recommendations and any issues arising with government delegations throughout the Summit. In advance of the Summit, delegates may contact Amnesty International's Centre for International Justice [E-mail: [cij@amnesty.nl](mailto:cij@amnesty.nl), Phone: +31 (0)70 304 7111/2/4].

## BACKGROUND

In May 2012, the Foreign and Commonwealth Office of the UK announced the launch of the *Preventing Sexual Violence in Conflict Initiative* (PSVI), aimed at ending rape and other forms of sexual and gender-based violence in armed conflict through a global effort of the international community. Since then, the UK and partners have taken a number of important initiatives.<sup>1</sup>

First, immediate steps were taken to bolster capacity for addressing crimes of sexual and gender-based violence where they take place. A roster for a Team of Experts that can be deployed into situations involving sexual and gender-based violence in conflict to assist in documentation, evidence collection, service provision to survivors and training of police, prosecutors, judiciary and other actors was developed by the UK. The first deployment, to the Syrian border region, took place in December 2012, with subsequent deployments there and to Bosnia and Herzegovina, Colombia, the Democratic Republic of the Congo, Kosovo, Libya, and Mali.

Second, states signed up to numerous commitments linked to the initiative. The Group of 8 (G8) states adopted a *Declaration on Preventing Sexual Violence in Conflict* in April 2013, which affirmed that rape and other forms of sexual and gender-based violence can amount to grave breaches of the Geneva Conventions, which in turn triggers universal jurisdiction obligations and the obligation to extradite or prosecute (*aut dedere aut judicare*) those suspected of criminal responsibility.<sup>2</sup> In September 2013, a further 122 states adopted a *Declaration of Commitment to End Sexual Violence in Conflict* on the margins of the UN General Assembly, containing similar commitments.<sup>3</sup>

States also signalled their support for a third strand of the initiative, namely the development of a non-binding guide to best practice in the documentation and investigation of sexual and gender-based violence in conflict. This is aimed at enhancing evidence collection and strengthening the possibility for prosecution of suspected perpetrators. The *International Protocol on Documentation and Investigation of Sexual Violence in Conflict* was developed in consultation with a wide range of criminal law practitioners, experts and actors in the field. It is expected to be presented at the Global Summit.

Important developments in this same period include the adoption of the Arms Trade Treaty in April 2013 recognising the especial impact of armed conflict on women and children and expressly prohibiting the exportation of conventional arms if there is an 'overriding risk' of their being used in the commission of gender-based violence constituting a serious violation of international humanitarian or human rights law or in the knowledge that they will be used to commit a crime under international law, such as war crimes, crimes against humanity or genocide.

There have also been important developments in the Security Council's efforts to more effectively address the issue of sexual and gender-based violence in armed conflict. This included the adoption in June 2013 of Resolution 2106 under the Women, Peace and Security agenda, following an open

<sup>1</sup> Amnesty International has provided advice and technical assistance to the government of the UK in a number of areas of the PSVI since its launch.

<sup>2</sup> FCO, *Declaration on Preventing Sexual Violence in Conflict adopted on 11 April 2013*, available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/185008/G8\\_PSVI\\_Declaration\\_-\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/185008/G8_PSVI_Declaration_-_FINAL.pdf). The Group of 8 included Canada, France, Germany, Italy, Japan, Russia, the UK and the United States of America. See also Amnesty International, REDRESS and TRIAL, *G8 commitment to tackle impunity for rape in conflict welcomed by human rights groups*, (12 April 2013) available at <http://www.amnesty.org.uk/press-releases/g8-commitment-tackle-impunity-rape-conflict-welcomed-human-rights-groups>.

<sup>3</sup> FCO, *Press release: 113 countries pledge action to end sexual violence in conflict*, (24 September 2013), available at <https://www.gov.uk/government/news/113-countries-pledge-action-to-end-sexual-violence-in-conflict-timetoeact>.

debate on sexual and gender-based violence in conflict. This resolution recalled key areas of the landmark Resolution 1325 on women in conflict and called on all member states to reinforce several important areas with respect to ending sexual and gender-based violence. These included: to strengthen the fight against impunity (including by excluding crimes of sexual and gender-based violence from the scope of amnesties); to monitor sexual and gender-based violence in armed conflict and post-conflict situations, and to support national institutions and local civil society networks in increasing resources and strengthening capacities to provide support services to survivors of sexual and gender-based violence.<sup>4</sup>

In October 2013, Resolution 2122 was adopted following the Security Council's annual open debate on women, peace and security, which that year focused on the rule of law and transitional justice on conflict-affected situations.<sup>5</sup> This resolution set out Security Council working methods to improve implementation of the women, peace and security agenda, including by giving more attention to women's leadership and participation in conflict resolution and peacebuilding, and addressing challenges linked to the lack and quality of information and analysis on the impact of armed conflict on women and girls, the role of women in peacebuilding and the gender dimensions of peace processes and conflict resolution. It also calls on Member States to comply with their relevant obligations to end to impunity and to thoroughly investigate and prosecute persons responsible for war crimes, genocide and crimes against humanity.

Also in October 2013, the Committee on the Elimination of Discrimination against Women adopted General Recommendation No. 30 on *Women in conflict prevention, conflict and post-conflict situations*.<sup>6</sup> The General Recommendation provides authoritative guidance to States parties on legislative, policy and other appropriate measures to ensure full compliance with their obligations under the Convention to protect, respect and fulfil women's human rights, including with regard to preventing and addressing sexual violence.

Another distinct but important development was announced on 6 February 2014 by the UN Special Representative on Sexual Violence in Conflict, when the African Union signed an agreement with the UN to cooperate in a range of measures to prevent and respond to sexual and gender-based violence in conflict on the African continent.<sup>7</sup>

As the Global Summit draws near, Amnesty International calls on all participating states to seize the opportunity it offers to define the steps that must be taken towards realising both commitments made under the banner of the UK-led PSVI and under their existing international legal obligations. The recommendations fall into the four key areas of the Summit's agenda. They are intended to assist states to develop practical outcomes for the prevention and punishment of crimes of sexual and gender-based violence in conflict, the provision of reparation and support to survivors and to address the lack of women's participation in peace building and related processes.

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<sup>4</sup> Resolution 2106 (2013) on Women, Peace and Security, available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2106\(2013\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2106(2013)).

<sup>5</sup> Resolution 2122 (2013) on Women, Peace and Security, available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2122\(2013\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2122(2013)).

<sup>6</sup> CEDAW, *General Recommendation No. 30 on Women in conflict prevention, conflict and post-conflict situations*, (18 October 2013) available at <http://www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf>.

## A. IMPROVING DOCUMENTATION, INVESTIGATION AND PROSECUTION OF SEXUAL AND GENDER-BASED VIOLENCE IN CONFLICT

### 1. STATES MUST CRIMINALIZE RAPE AND OTHER FORMS OF SEXUAL AND GENDER-BASED VIOLENCE AS CRIMES UNDER INTERNATIONAL LAW AND DEFINE THEM IN ACCORDANCE WITH THE HIGHEST INTERNATIONAL STANDARDS

A legal framework criminalizing sexual and gender-based violence as crimes under international law so such acts can be prosecuted at the national level as torture, war crimes, crimes against humanity and genocide when appropriate, is an essential prerequisite to efficient and effective investigation and prosecution of alleged perpetrators. States attending the Summit should undertake to review the status of domestic substantive and procedural criminal law to ensure it conforms to the highest standards of international law concerning crimes of sexual and gender-based violence, and to enact any necessary reforms. Amnesty International recommends that states should enact domestic legislation that ensures, at a minimum:

- All crimes of sexual and gender-based violence are criminalized (including rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and any other forms of sexual violence of comparable gravity);
- Each of these acts are characterized, as appropriate, as torture, war crimes, crimes against humanity, and genocide so they can be prosecuted at the national level as crimes under international law;
- The definitions are gender neutral and in conformity with the highest standards of international law;<sup>8</sup>
- Modes of liability for the commission of crimes under international law are codified in criminal law, including command and superior responsibility;<sup>9</sup>
- Procedural rules in criminal cases concerning sexual and gender-based violence are brought into line with international best practice, including safeguards that guarantee that testimony of survivors of sexual and gender-based violence does not need to be corroborated, that victims of sexual and gender-based violence are shielded from irrelevant and inappropriate questions during testimony concerning prior or subsequent sexual history, which can constitute secondary victimisation, and that *in camera* hearings and other methods such as video-link can be used to hear the testimony of survivors of

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<sup>7</sup> These measures include: "combating impunity for perpetrators, capacity building and training to enhance the capacity of peacekeepers and security actors, as well as strengthening national policies, legislation and institutions working on conflict-related sexual violence. The agreement also emphasizes the importance of services for survivors, empowering women and girls, and countering the stigma of survivors." See Office of the Special Representative of the Secretary General for Sexual Violence in Conflict, *Landmark agreement between the African Union and the United Nations to prevent and respond to conflict-related sexual violence*, (6 February 2014) available at <http://www.un.org/sexualviolenceinconflict/press-release/landmark-agreement-between-the-african-union-and-the-united-nations-to-prevent-and-respond-to-conflict-related-sexual-violence/>.

<sup>8</sup> See Amnesty International, *International Criminal Court: Updated checklist for effective implementation*, Index: IOR 53/009/2010 (2010) - <http://www.amnesty.org/en/library/info/IO53/009/2010> and Amnesty International, *Rape and sexual violence: Human rights law and standards in the International Criminal Court*, Index: IOR53/001/2011 (2011) - <http://www.amnesty.org/en/library/info/IO53/001/2011>.

<sup>9</sup> See Amnesty International, *International Criminal Court: Updated checklist for effective implementation*, Index: IOR 53/009/2010 (2010) - <http://www.amnesty.org/en/library/info/IO53/009/2010>, at 15-16.



sexual and gender-based violence;<sup>10</sup>

- States should ensure that lack of consent of the victim is not an element that must be proven for crimes of sexual violence under international law, as it should be sufficient to require proof of a coercive environment in which it was not possible for the victim to consent. In the very rare case where such evidence may be nonetheless relevant, it should not be admitted without first testing its reliability and credibility, including in an *in camera* hearing.<sup>11</sup>

## 2. STATES MUST REMOVE BARRIERS TO INVESTIGATION AND PROSECUTION OF SEXUAL AND GENDER-BASED CRIMES UNDER INTERNATIONAL LAW, INCLUDING STATUTES OF LIMITATION AND DISCRIMINATORY LAWS, POLICIES AND PRACTICES

The failure to codify crimes of sexual and gender-based violence as crimes under international law in domestic legislation often means that this kind of criminal conduct can only be prosecuted as ordinary offences, under which statutory limitations (or “prescription”) may apply. Statutory limitations are a bar to the investigation and prosecution of past crimes and thus perpetuate impunity for these crimes. International law prohibits statutory limitations for genocide, crimes against humanity, war crimes and torture, among other crimes under international law<sup>12</sup>. Accordingly, states should:

- Undertake to review their domestic legislation to ensure that crimes of sexual and gender-based violence amounting to torture, war crimes, crimes against humanity and genocide are not subject to statutory limitations/prescription;
- Accede to the *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity*, without making any reservation or declaration amounting to reservation.<sup>13</sup>

Other obstacles to investigation and prosecution of crimes under international law can include discriminatory laws, policies and practices, and prevailing discriminatory attitudes, myths and stereotypes among criminal justice actors. Such attitudes often prevent survivors from reporting crimes of sexual and gender-based violence committed against them as they engender a lack of trust in the justice system to treat them fairly. This can be exacerbated for survivors who may face discrimination on a number of grounds (e.g., gender, race, religion etc.). Further, stigma and shame – which invariably stem from discriminatory gender stereotypes – are among the most common

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<sup>10</sup> See *Rape and sexual violence: Human rights law and standards in the International Criminal Court*, Index: IOR53/001/2011 (2011) - <http://www.amnesty.org/en/library/info/IO53/001/2011>, at 29. See also ICC, Rules of Procedure and Evidence. Rule 63(4) of the ICC Rules of Procedure and Evidence provides: “Without prejudice to article 66, paragraph 3, a Chamber shall not impose a legal requirement that corroboration is required in order to prove any crime within the jurisdiction of the Court, in particular, crimes of sexual violence”. See also Rule 70, ICC Rules of Procedure and Evidence “Principles of evidence in cases of sexual violence” and Rule 71, ICC Rules of Procedure and Evidence “Evidence of other sexual conduct”.

<sup>11</sup> See Rule 72, ICC Rules of Procedure and Evidence “*In camera* procedure to consider relevance or admissibility of evidence”.

<sup>12</sup> For example, Article 1, *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity*; *Prosecutor v. Furundzija, Judgment, International Criminal Tribunal for the former Yugoslavia* (10 December 1998), para. 155-15: (no statute of limitations should apply to jus cogens prohibition of torture); *Barrios Altos v. Peru, Judgment, Inter-American Court of Human Rights*, 14 March 2001, para. 41: (provisions on prescription with respect to serious human rights violations such as torture, extrajudicial, summary or arbitrary execution and forced disappearance are prohibited); Article 29, *Rome Statute of the International Criminal Court*.

<sup>13</sup> Article 1 of the *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity*, which entered into force in 1970, provides that: “No statutory limitation shall apply to the following crimes, irrespective of the date of their commission: [war crimes, crimes against humanity, including genocide and apartheid]”. Only 54 states are party to this treaty to date.

and difficult obstacles survivors face and prevent many from reporting the crime.

Another common obstacle is the lack of specialized training of judges, prosecutors, defence counsel, police and other relevant officials in investigating, prosecuting and trying sexual and gender-based crimes under international law. Prosecuting crimes under international law is often highly complex and politically sensitive, but the stigma associated with crimes of sexual and gender-based violence can make their investigation and prosecution particularly complex and sensitive, requiring a high degree of specialised training, including in gender sensitivity.

These obstacles may also prevent full investigations into crimes or difficulty securing a conviction even when there is sufficient admissible evidence against accused persons. Accordingly, states should:

- Identify and immediately repeal all domestic laws and remove all policies that are discriminatory on their face or which have a discriminatory impact (e.g., laws that only criminalize rape of women and girls);
- Train police, prosecutors and the judiciary in best practices for investigation, prosecution and adjudication of crimes under international law and identifying and addressing gender inequality in relation to access to justice, as well as general gender sensitization training for all their interactions with complainants and other members of the public;
- Establish laws, policy and programmes to provide for adequate psychosocial support to survivors of sexual and gender-based violence, as well as witness protection measures before, during and after trial.

In addition, states should:

- Remove any other obstacles in national law which serve as barriers to investigation, prosecution and adjudication of crimes of sexual and gender-based violence, including grants of amnesties, pardons, claims to immunity or defences which are impermissible under international law (e.g., the defence of superior orders<sup>14</sup>);
- Accede to the *Rome Statute of the International Criminal Court*, if not already a party;
- Accede to the *Convention on the Elimination of Discrimination against Women* and its Optional Protocol, without reservations or declarations amounting to reservations, if they have not already done so. States that have ratified the Convention with reservations should withdraw those reservations and all states parties should take concrete measures to fully implement their obligations under the Convention;
- States parties to CEDAW should take measures, including temporary special measures, to eliminate prejudices and all practices based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women (art 5), including to strengthen access to justice for survivors of sexual and gender-based crimes;
- Accede to the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment* and its Optional Protocol without reservations or declarations amounting to reservations, if they have not already done so. All states parties should take concrete

measures to fully implement their obligations under the Convention;

- States should also accede to, and implement their obligations under relevant regional instruments, including those addressing violence against women, women's human rights and protection of children in armed conflict. The European Union (EU) and member states of the Council of Europe should accede to the *Convention on preventing and combating violence against women and domestic violence*, which will enter into force on 1 August 2014.<sup>15</sup> Members of the Organization of American States that have not already done so should accede to the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem Do Para)*.<sup>16</sup> African states should accede to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

### 3. STATES SHOULD COMMIT TO ENACTING AND EXERCISING UNIVERSAL JURISDICTION AND OTHER FORMS OF EXTRATERRITORIAL JURISDICTION OVER RAPE AND OTHER FORMS OF SEXUAL AND GENDER-BASED VIOLENCE THAT AMOUNT TO CRIMES UNDER INTERNATIONAL LAW

Impunity for rape and other forms of sexual violence amounting to crimes under international law exists mainly where national authorities of countries affected by the crimes have failed to act. States should commit to exercising universal jurisdiction over crimes of sexual and gender-based violence in this context, meaning that they will do so even when the crimes did not occur on their territory or harm their citizens or state interests. In practice, this means that governments should put both legislation and structures in place that will facilitate investigation and prosecution of crimes of sexual and gender-based violence.

Under international law, all states have an obligation to prosecute or extradite persons suspected of torture, war crimes, crimes against humanity or genocide present in any territory subject to their jurisdiction.<sup>17</sup> In addition, the 1949 Geneva Conventions oblige all states parties to investigate and prosecute those responsible for grave breaches of the Conventions,<sup>18</sup> irrespective of where the crime was committed or the nationality of the accused or the victim.<sup>19</sup> Rape and other crimes of sexual violence committed in conflict can amount to grave breaches such as torture, triggering states' obligations to exercise universal jurisdiction. This was recently affirmed in the *Declaration of*

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<sup>14</sup> See for example, Article VIII, Nuremberg Charter 1945; Article 33, Rome Statute of the ICC.

<sup>15</sup> Only ten states had ratified this important treaty by May 2014. Current states parties are Albania, Andorra, Bosnia and Herzegovina, Czech Republic, Italy, Montenegro, Portugal, Serbia, Spain and FRY Macedonia.

<sup>16</sup> The US and Canada have not acceded to the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women*.

<sup>17</sup> See, e.g. Article 5(2) Convention against Torture, Article 9(2) Convention of the Protection of All Persons from Enforced Disappearances, *ILC Draft Code of Crimes against the Peace and Security of Mankind*, 1996. See also Amnesty International, *International Law Commission: The Obligation to Extradite or Prosecute (aut dedere aut judicare)*, Index: IOR40/001/2009 (2009), available at <http://www.amnesty.org/es/library/asset/IOI40/001/2009/en/a4761626-f20a-11dd-855f-392123cb5f06/ior400012009en.pdf>.

<sup>18</sup> Grave breaches are war crimes committed during international armed conflicts that amount to torture, inhuman treatment or wilfully causing great suffering. See Article 50, First Geneva Convention, Article 51, Second Geneva Convention, Article 130, Third Geneva Convention, Article 147, Fourth Geneva Convention and Articles 11 and 85 of the First Additional Protocol.

<sup>19</sup> See, ICRC, *Customary International Humanitarian Law, Rule 157* ("Obligation to establish universal jurisdiction: The right of States to vest universal jurisdiction in their national courts over war crimes in no way diminishes the obligation of States party to the Geneva Conventions and States party to Additional Protocol I to provide for universal jurisdiction in their national legislation over those war crimes known as "grave breaches").

*Commitment to End Sexual Violence in Conflict*, endorsed by more than 140 states.<sup>20</sup>

States should conduct prompt, thorough, independent and impartial investigations of crimes under international law – including rape and other forms of sexual violence – in accordance with international standards. If there is sufficient admissible evidence, they should prosecute suspects in fair judicial proceedings before ordinary civilian courts, without recourse to the death penalty.

States attending the Global Summit should:

- Publicly pledge that they will not be a safe haven for persons suspected of committing crimes of sexual and gender-based violence under international law;
- Enact legislation to enable national criminal justice authorities to investigate and prosecute any person suspected of the crimes under the principle of universal jurisdiction, regardless of where the crime was committed or the nationality of the accused or the victim, and legislate for reparation awards to survivors and their families;
- Develop national action plans for the investigation and prosecution of crimes under international law under the principle of universal jurisdiction that specifically address crimes of sexual and gender-based violence;
- Establish specialized units to handle investigations and prosecutions for crimes under international law and ensure dedicated resources and expertise within such units for addressing crimes of sexual and gender-based violence.<sup>21</sup>

#### **4. STATES SHOULD BUILD CAPACITY TO MAP, INVESTIGATE, PROSECUTE AND ADJUDICATE CRIMES OF SEXUAL AND GENDER-BASED VIOLENCE IN CONFLICT OFFER TECHNICAL ASSISTANCE WHERE REQUIRED, INCLUDING SUPPORT FOR WOMEN HUMAN RIGHTS DEFENDERS**

Inadequate human and material resources to map, investigate, prosecute and adjudicate crimes under international law at the national level often impedes efforts to provide survivors of rape and other forms of sexual and gender-based violence with justice, truth and reparation and fuels a climate of impunity for ongoing violations. States should commit resources to strengthening capacity of national criminal justice systems in these areas and, if they are in a position to do so, offer technical assistance to other states that require it. They should also work with and support women human rights defenders (WHRD)<sup>22</sup> as they are often at the forefront of efforts to prevent and map crimes and obtain justice and reparation for survivors.

In recent decades, considerable expertise has developed in the documentation and investigation of sexual and gender-based violence in conflict. As highlighted above, a concerted effort to gather and harmonize this expertise developed by international criminal tribunals, domestic jurisdictions, multilateral and civil society organizations, including women human rights defenders, has taken

<sup>20</sup> *Declaration of Commitment to End Sexual Violence in Conflict* (September 2013), available at <https://www.gov.uk/government/news/113-countries-pledge-action-to-end-sexual-violence-in-conflict-timetoact>.

<sup>21</sup> See, e.g., International Criminal Tribunal for Rwanda, *Best Practices Manual for the Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the ICTR*, (January 2014), at paras 24-30, available at <http://www.unict.org/portals/o/English/Legal/Prosecutor/ProsecutionofSexualViolence.pdf>.

<sup>22</sup> The term 'women human rights defender', or 'WHRD' are women who, individually or in association with others, act to promote or protect all human rights, as well as people of all genders who work to promote and protect women's rights and gender issues more generally.

place in the context of the UK-led PSVI. States should take note of this guide to basic standards of best practice (the *Protocol*) and assist national authorities to adopt international best practice in investigation of sexual and gender-based violence that may amount to crimes under international law.

Moreover, concerted efforts are needed to map sexual and gender-based violence in conflict, or in the context of a pattern of gross human rights violations, to spur criminal justice responses, as well as to determine patterns that may be relevant for national authorities (including patterns which may indicate whether the acts amount to war crimes, crimes against humanity or genocide).

Amnesty International recommends:

- States develop training curricula and operating procedures for national authorities on investigation and prosecution of sexual and gender-based crimes under international law in line with established international law and best practice;
- States in which sexual and gender-based violence in armed conflict is occurring or has occurred should request the assistance of multilateral organizations or other states, including UN missions (e.g., Office of the High Commissioner for Human Rights and UN Women) at country level, the UN Team of Experts<sup>23</sup> or UK Team of Experts,<sup>24</sup> as required, particularly in the areas of justice and security sector reform, training for criminal justice actors and military personnel, and mapping and investigation of rape and other forms of sexual and gender-based violence;
- States pledge to offer technical assistance and resources to states and civil society organizations, including women human rights defenders, working on all aspects of sexual and gender-based violence in conflict, from prevention to support for survivors, and to women human rights defenders and organisations working on women's rights.
- States create and consolidate a safe and enabling environment for women human rights defenders who fulfil a range of vital functions in preventing and addressing sexual and gender-based violence in conflict, including documentation, providing assistance to survivors of sexual and gender-based violence, and conducting advocacy and legal representation.<sup>25</sup>

## **5. STATES SHOULD COMMIT TO SUPPORTING GENUINE INITIATIVES IN INTERGOVERNMENTAL BODIES TO ESTABLISH COMMISSIONS OF INQUIRY OR REFERRALS TO INTERNATIONAL OR**

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<sup>23</sup> UN Security Council Resolution 1888 (2009) mandated the UN to establish a Team of Experts. The Team of Experts can be contacted through the Office of the Special Representative of the Secretary-General (SRSG) on Sexual Violence in Conflict at UN Headquarters in New York.

<sup>24</sup> The UK Team of Experts was established in 2012 pursuant to the PSVI. The Team is comprised of a roster of 70 experts in criminal justice, gender-based violence, sexual offences examination, psychosocial support and social work, and can be contacted through the Stabilisation Unit of the UK Government.

<sup>25</sup> The key elements of a safe and enabling environment for human rights defenders have been defined by the former UN Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya, as including: "a conducive legal, institutional and administrative framework; access to justice and an end to impunity for violations against defenders; strong and independent national human rights institutions; effective protection policies and mechanisms paying attention to groups at risk; specific attention to women defenders; non-State actors that respect and support the work of defenders; safe and open access to international human rights bodies; and a strong and dynamic community of defenders." See *Report of the Special Rapporteur on the situation of human rights defenders Margaret Sekaggya*, A/HRC/25/55, 23 December 2013, at para.61, available at: [www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-55\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-55_en.doc).

### HYBRID JUSTICE MECHANISMS TO INVESTIGATE, PROSECUTE AND ADJUDICATE CRIMES OF SEXUAL AND GENDER-BASED VIOLENCE IN CONFLICT

Where national authorities fail to conduct prompt, full, impartial and effective investigations and prosecutions for crimes of sexual and gender-based violence, the international community must respond. Frequently, states support the establishment of commissions of inquiry or referral to international criminal justice mechanisms – such as the ICC – to ensure accountability for survivors of sexual and gender-based and other crimes under international law. Occasionally, the international community has also supported the establishment of hybrid mechanisms with a mix of national and international adjudicators (e.g., Special Court for Sierra Leone, the Court and Prosecutor's Office of Bosnia and Herzegovina). States must avoid selectivity regarding which situations merit referral for international attention and assistance in order to provide justice to victims and ensure a consistent approach is taken when calling for and supporting such initiatives.

- States should commit to supporting the establishment of commissions of inquiry or referrals to international or hybrid justice mechanisms to investigate, prosecute and adjudicate crimes of sexual and gender-based violence in conflict in line with the highest standards of international law. Such initiatives must be independent, impartial, effective and respect fundamental human rights;
- States should consistently reject amnesties for crimes of sexual and gender-based violence in peace agreements and ensure the inclusion of all forms of sexual and gender-based violence in the definition of acts prohibited by ceasefires and in provisions for ceasefire monitoring.

Successive UN Security Council resolutions have called for states to investigate and prosecute those responsible for sexual and gender-based violence amounting to crimes under international law.<sup>26</sup> Yet, at times the Security Council has itself failed to take action to ensure justice, truth and reparation for victims of conflict-related crimes, including survivors of sexual and gender-based violence. Amnesty International recommends that:

- The Security Council take concerted action to call for conflict-affected states to ensure that victims of sexual and gender-based violence have recourse to justice, truth and reparation;
- In particular, the permanent members of the UN Security Council should pledge not to exercise the veto against Chapter VI or VII resolutions on matters of war crimes, crimes against humanity and genocide, including in relation to crimes of sexual and gender-based violence.<sup>27</sup>

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<sup>26</sup> See UN Security Council Resolutions 1325, 1820, 1888, 1889, 1960, 2106 and 2122.

<sup>27</sup> See Amnesty International, *Statement and recommendations on the Open Debate of the Security Council on Peace and Justice, with a Special Focus on the Role of the International Criminal Court* (Index IOR 53/021/2012), 16 October 2012, available at <http://www.amnesty.org/en/library/info/IOR53/021/2012/en>.

## B. PROVIDING GREATER SUPPORT, ASSISTANCE, AND REPARATION TO SURVIVORS OF SEXUAL AND GENDER-BASED VIOLENCE

### 6. WHERE NECESSARY, STATES SHOULD CREATE SPECIFIC NATIONAL PROGRAMMES OF ASSISTANCE AND REPARATION TO SURVIVORS OF SEXUAL AND GENDER-BASED VIOLENCE IN CONFLICT

Survivors of rape and other forms of sexual and gender-based violence, of all ages and genders, are too often denied basic forms of assistance and their right to receive full reparation. While criminal processes can serve to acknowledge the harm suffered by survivors of sexual and gender-based violence, identify the perpetrators, establish responsibility and provide punishment, reparation is focused on restoring the well-being of survivors and ensuring them a place of dignity in society through concrete forms of assistance as well as symbolic measures. Survivors of sexual and gender-based violence have the right to receive full reparation, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition for the crimes committed against them.<sup>28</sup>

Properly tailored reparation can transform survivors' lives. In the case of sexual and gender-based crimes, transformative reparation measures "should aspire, to the extent possible, to subvert, instead of reinforce, pre-existing structural inequality that may be at the root causes of the violence", including violence that women in particular experience before, during and after the conflict.<sup>29</sup> In order to provide properly tailored reparation programmes, it is necessary to have data on rape and other forms of sexual and gender-based violations that are disaggregated by sex, age and other relevant factors (such as ethnicity, sexual orientation and gender identity, and religion).

Shame and stigma play a key role in the suppression of survivors of sexual and gender-based violence, regardless of their gender, and prevents them from reporting the crime and seeking medical, psychosocial or other support. In this way, they are denied access to justice, other remedies and reparation, thus allowing the cycle of impunity to continue. Addressing the causes and consequences of the stigma associated with sexual and gender-based violence is part of a State's obligations to prevent and punish such acts, including when committed by non-state actors, and ensure that survivors can access justice, truth and reparation. Reparation should include access for survivors of rape and other forms of sexual and gender-based violence to medical and psychological assistance. States should also create programmes and institutions, which provide health and educational services to survivors, including promoting women's human rights. Such initiatives should also include, for example, school and public educational programmes that aim to eradicate stigma and discrimination against rape survivors in society and break cycles of victimization and disempowerment of women and girls.

Amnesty International calls on states attending the Global Summit to take a wide range of steps to increase access to support, assistance and reparation where necessary at the national level including:

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<sup>28</sup> See, UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147, 21 March 2006; Also, *Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation*, 2007, available at [http://www.fidh.org/IMG/pdf/NAIROBI\\_DECLARATIONeng.pdf](http://www.fidh.org/IMG/pdf/NAIROBI_DECLARATIONeng.pdf); and African Commission on Human and Peoples' Rights *Resolution on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence*, 2007, at <http://www.achpr.org/sessions/42nd/resolutions/111/>.

<sup>29</sup> Report of the Special Rapporteur on violence against women, its causes and consequences Ms. Rashida Manjoo, *Reparations to women who have been subjected to violence* (2010) at para. 31, available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/HRC/14/22](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/14/22)

- States should collect data on sexual and gender-based violations that is disaggregated by sex, age and other relevant factors (ethnicity, sexual orientation and gender identity, religion, etc.) in order to ensure that all reparation and assistance programmes are properly tailored and meet international human rights obligations;
- States where sexual and gender-based violence is occurring or has occurred in the context of armed conflict should create specific national programmes of assistance and reparation to survivors of sexual and gender-based violence in conflict, tailored to their individual and collective needs, and in line with the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*;
- Programmes for assistance and reparation should include school and public educational programmes that aim to eradicate stigma and discrimination against rape and sexual violence survivors, regardless of gender, age or any other factor, and break cycles of victimization and disempowerment of women and girls.
- States should ensure that survivors of crimes of sexual and gender-based violence under international law are guaranteed their sexual and reproductive rights and can access the full range of sexual and reproductive health and information services if required, including psychological support and counselling, emergency contraception, HIV counselling, testing and post-exposure prophylaxis, safe and legal abortion and maternal health support;
- States should ensure that specialist agencies are a central part of efforts to support and assist victims and survivors, including through the provision of long-term psychosocial support.

#### **7. STATES SHOULD SUPPORT INTERNATIONAL EFFORTS TO PROVIDE ASSISTANCE AND REPARATION TO SURVIVORS OF SEXUAL AND GENDER-BASED VIOLENCE, INCLUDING THROUGH CONTRIBUTIONS TO THE ICC TRUST FUND FOR VICTIMS**

Tailored assistance and reparation to survivors of sexual and gender-based crimes, whether individual or collective, can have a transformative effect on survivors' lives. States should support international bodies and initiatives that seek to deliver such assistance and reparation, including, for example, the ICC Trust Fund for Victims which can provide programmes tailored to the need of survivors of sexual and gender-based crimes in ICC situation countries.

Further, Amnesty International notes that the United Nations Seven-Point Action Plan on Gender-Responsive Peacebuilding 2010 commits its entities to dedicate at least 15% of their funds in post-conflict settings to projects that address women's specific needs, advance gender equality and empower women. It also commits to ensuring a systematic approach to women's participation in, and availability of gender expertise to all peace and post-conflict planning processes, and a rule of law approach, before, during and after conflict, that systematically promotes women and girls' rights to access to justice. Importantly, it commits to making the provision of legal support services to survivors of conflict-related sexual and gender-based violence on a scale that demonstrates "commitment to ending impunity and protecting victims" a standard component of the UN's rule of law response in the immediate



post conflict period.<sup>30</sup> Accordingly, Amnesty International recommends:

- States should pledge regular or multi-year contributions to the ICC Trust Fund for Victims<sup>31</sup> and the UN Voluntary Fund for Victims of Torture, in accordance with financial capacity;
- In line with the UN Seven-Point Action Plan, states should consider dedicating a proportion of foreign development assistance for activities whose principal objective is to advance gender equality before, during and after conflict, including the educational and economic empowerment of women and girls and measures to prevent sexual and gender-based violence and address survivors' needs.

## **C. ENSURING FULL INTEGRATION OF SEXUAL AND GENDER-BASED VIOLENCE RESPONSES AND THE PROMOTION OF GENDER EQUALITY IN ALL PEACE AND SECURITY EFFORTS**

The United Nations Security Council is well placed to remind states of their obligations in this regard, including through holding thematic debates on sexual and gender-based violence and adopting resolutions. The adoption last year of Security Council resolutions 2106 (2013) on sexual violence and 2122 (2013) highlight the need for sexual and gender-based violence in conflict to be addressed as part of the broader women, peace and security agenda, including by addressing the root causes of sexual and gender-based violence, ensuring women's participation and supporting women human rights defenders and women-led organisations.

### **8. STATES MUST PURSUE THE FULL AND EFFECTIVE IMPLEMENTATION OF UN SECURITY COUNCIL RESOLUTIONS ON WOMEN, PEACE AND SECURITY AND DEVELOP NATIONAL ACTION PLANS IN CONSULTATION WITH CIVIL SOCIETY**

States attending the Global Summit must ensure that efforts to prevent and respond to sexual and gender-based violence in conflict are mainstreamed within the context of broader efforts to promote gender equality, women's participation in peacebuilding, post-conflict reconstruction and initiatives to address other forms of gender-based violence.

Accordingly, Amnesty International recommends:

- All states must pursue the full and effective implementation of UN Security Council Resolutions on women, peace and security (1325, 1820, 1888, 1889, 1960, 2106 and 2122) in particular by developing, in consultation with civil society, and adopting National Action Plans. These should be integrated with specific initiatives within broader work to implement the *Convention on the Elimination of All Forms of Discrimination Against Women* in domestic law and practice;
- Governments should actively engage the armed forces in more effectively implementing actions on women, peace and security and preventing sexual and gender-based violence in conflict, including developing appropriate gender sensitive training which includes preventing and responding to sexual and gender-based crimes under international law;

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<sup>30</sup> *United Nations Seven-Point Action Plan on Gender-Responsive Peacebuilding 2010.*

[http://www.un.org/en/peacebuilding/pbso/pdf/seven\\_point\\_action\\_plan.pdf](http://www.un.org/en/peacebuilding/pbso/pdf/seven_point_action_plan.pdf)

<sup>31</sup> The ICC Trust Fund for Victims was established pursuant to Article 79 of the Rome Statute of the ICC for the benefit of the victims of crimes within the jurisdiction of the Court and their families. The ICC Trust Fund for Victims has a dual mandate to deliver assistance and reparation. See [www.trustfundforvictims.org](http://www.trustfundforvictims.org).

- States should ensure that civil society and in particular, women human rights defenders and grassroots women's organizations, are consulted, engaged and supported as a central part of ongoing efforts to implement the commitments made under the PSVI and existing obligations under international law.

In addition, states should engage with international human rights monitoring and technical assistance mechanisms. Accordingly, they should:

- Extend a standing invitation to the Special Rapporteur on Violence Against Women and other relevant UN special procedures, such as the Special Rapporteurs on Torture and other forms of ill-treatment; Truth, Justice and Reparation and Guarantees of Non-Recurrence; and Trafficking in Persons, especially in women and children; and states affected by conflict should do so for the Special Representative on Sexual Violence in Conflict and the Special Representative on Children in Armed Conflict;
- Ensure that periodic reports to UN treaty bodies include, where relevant, disaggregated data on rape and other forms of sexual and gender-based violence and information on domestic law and practice in relation to provision of justice, truth and reparation to survivors.

In addition:

- States participating in UN peacekeeping operations should provide substantive and detailed training on sexual and gender-based violence and women, peace and security as part of pre-deployment training of UN peacekeepers and other staff. Moreover, troop-contributing States should ensure strict adherence to the UN policy of zero tolerance for sexual exploitation and abuse, and take disciplinary action and other action to ensure full accountability in cases involving their personnel.
- Member States of the African Union should support and cooperate with the newly appointed Special Envoy on Women, Peace and Security of the Chairperson of the African Union Commission, to prevent and respond to sexual violence in Africa.
- NATO member states that have not already done so should develop and implement plans to mainstream actions based on UNSC Resolution 1325 in line with NATO Bi-Strategic Command Directive 40-1 on *Integrating UNSCR 1325 and Gender Perspective Into the NATO command structure including measures for protection during armed conflict*.<sup>32</sup>
- The European Union and its Member States should continue taking effective steps to implement an EU wide approach to implementation of UNSC Resolution 1325, including development, implementation, monitoring and evaluation of NAPs in all member states, strengthening support to third countries, and ensuring meaningful exchange with civil society on strategies for addressing all aspects of Resolution 1325.

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<sup>32</sup> Bi-Strategic Command Directive 40-1 (2 September 2009) available at [http://www.nato.int/nato\\_static/assets/pdf/pdf\\_2009\\_09/20090924\\_bi-sc\\_directive\\_40-1.pdf](http://www.nato.int/nato_static/assets/pdf/pdf_2009_09/20090924_bi-sc_directive_40-1.pdf).

## **9. STATES SHOULD ENSURE THAT THE FUTURE POST-2015 DEVELOPMENT AGENDA REFLECTS GLOBAL COMMITMENTS TO END SEXUAL AND GENDER-BASED VIOLENCE IN CONFLICT**

Discussion of what is to follow the post Millennium Development Goals (MDGs), which reach their target date in 2015, is currently underway. States attending the Summit must keep in mind the close links between peace and security, human rights and development. Protecting women's human rights at all times, advancing substantive gender equality before, during and after conflict and ensuring that women's diverse experiences are fully integrated into all peacebuilding, peace-making, and reconstruction processes are crucial to achieving sustainable development.

When conflicts end and yield to peace-building and reconstruction efforts, states must hold human rights violators to account, put an end to impunity, restore the rule of law, and address the needs of survivors with the provision of justice accompanied by reparations. As emphasised in the CEDAW General Recommendation No. 30, challenges related to access to justice are especially aggravated and acute in conflict and post-conflict situations as formal justice systems may no longer exist or function with any level of efficiency or effectiveness.<sup>33</sup> All barriers faced by women in accessing justice before the national courts prior to conflict, such as legal, procedural, institutional, social and practical, and entrenched gender discrimination are exacerbated during conflict, persist during the post-conflict period and operate alongside the breakdown of the police and judicial structures to deny or hinder their access to justice.<sup>34</sup> At such critical times of post-conflict reconstruction, it is essential to ensure that development assistance is provided in a manner, which ensures that victims of sexual violence have access to justice, reparation and services. It is equally essential to ensure women's full and equal participation at all levels of decision-making, peace negotiations and post-conflict reconstruction efforts, in order to ensure that issues such as women's economic and political empowerment and sexual and gender-based violence are adequately addressed.

Amnesty International calls on states to ensure that the commitment to end sexual and gender-based violence in conflict is also reflected in the post-2015 development framework, including by:

- Ensuring that human rights, gender equality and women's empowerment, and accountability, including access to justice and reparation for victims, are firmly embedded in the future post-2015 framework;
- Ensuring that the future post-2015 development framework is accompanied by robust rights-based targets and indicators that adequately measure progress, including access to sexual and reproductive health and rights for survivors; and the proportion of women in political leadership roles at all levels of local, regional and national processes.

## **D. IMPROVING INTERNATIONAL STRATEGIC CO-ORDINATION TO PREVENT AND RESPOND TO SEXUAL AND GENDER-BASED VIOLENCE IN CONFLICT**

A key goal of the global Summit is improving strategic coordination in a number of inter-related areas, such as developing the deployment of international expertise to build national capacity and forming new partnerships to support conflict-affected countries. Amnesty International recommends that states – at the Summit and beyond – pursue a range of measures nationally and

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<sup>33</sup> CEDAW, *General Recommendation No. 30 on Women in conflict prevention, conflict and post-conflict situations*, (18 October 2013) available at <http://www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf>.

<sup>34</sup> *Ibid.*, at para. 74. *Error! Hyperlink reference not valid.*

internationally to ensure adequate funding for implementation of their commitments and, in particular, protecting and empowering women human rights defenders.

#### **10. STATES SHOULD ALLOCATE FUNDING TO IMPLEMENT COMMITMENTS MADE UNDER THE PSVI AND THE BROADER WOMEN, PEACE AND SECURITY AGENDA**

In addition to the steps recommended to states to support the provision of assistance, support and reparation to survivors of sexual and gender-based violence (see Point 7), Amnesty International is also calling on states to implement other concrete initiatives, including financially supporting the delivery of their commitments. Accordingly, Amnesty International recommends that:

- States that have not already done so should allocate funding to implement commitments made under the PSVI and the broader women, peace and security agenda;
- Apply gender-sensitive budgeting, in particular in post-conflict situations, to provide for medical, psychosocial and other services to survivors of sexual violence. Donors should provide bilateral and multilateral development assistance dedicated to support efforts regarding justice mechanisms and services to survivors, and should also provide financial and other support to women human rights defenders working on issues related to women's rights and empowerment.
- States should contribute expertise and resources to the UN Team of Experts and other efforts to deploy international expertise to assist in responding to sexual and gender-based violence, such as the Justice Rapid Response<sup>35</sup> mechanism or the UK Team of Experts;
- Bilateral donor countries should establish pooled inter-agency funds for priority countries to enable support for small and medium sized locally based organizations. Notice of available funds should be proactively disseminated to smaller women's rights organizations, human rights defenders and others working on women's human rights, including those outside of capitals. Application processes should be simplified for grassroots organizations, including enabling them to apply in the principal language(s) of that country. Applications should also be processed without undue delay.

#### **11. STATES SHOULD TAKE MEASURES THAT EXPLICITLY INTEGRATE GENDER-SENSITIVE SUPPORT FOR AND PROTECTION OF HUMAN RIGHTS DEFENDERS**

The 2013 *Declaration of Commitment to End Sexual Violence in Conflict* committed the signing states to: "encourage, support and protect the efforts of civil society organizations, including women groups and human rights defenders, to improve the monitoring and documentation of cases of sexual and gender-based violence in conflict without fear of reprisal and empower survivors to access justice." Human rights defenders working on behalf of adult and child survivors of sexual and gender-based violence, and on related issues (such as police accountability, access to healthcare etc.), often face threats to their rights to privacy, respect for private and family life, freedom of opinion and expression, association and peaceful assembly. Women human rights defenders frequently face even more acute risks and are often themselves subjected to violence, including sexual and gender-based violence. States must work together with civil society to implement the

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<sup>35</sup>The Justice Rapid Response (JRR) is an intergovernmental facility that manages the rapid deployment of criminal justice professionals from a stand-by roster and can be contacted at its Secretariat based in Geneva or liaison offices in The Hague and New York. See [www.justicerapidresponse.org](http://www.justicerapidresponse.org).

*UN Declaration on Human Rights Defenders*<sup>36</sup> and the *Resolution on Protection of Women Human Rights Defenders* adopted by the UN General Assembly in December 2013<sup>37</sup> in order to strengthen the international community's recognition of their legitimacy and the crucial role they play in addressing all aspects of sexual and gender-based violence in conflict from prevention to enabling survivors' exercise of their sexual, reproductive and health rights.

Amnesty International calls on states attending the Summit to reaffirm their obligations to take concrete steps to prevent threats, harassment and violence, including sexual and gender-based violence, by state and non-state actors against all those engaged in the promotion and protection of human rights and fundamental freedoms, including women human rights defenders who, in particular, face the risk of violence. Further, states attending the global Summit should commit to:

- Establishing gender-specific domestic laws and policies consistent with international law that enable the work of WHRDs and protect them from, *inter alia*, reprisals for communication and cooperation with national, regional and international human rights institutions and mechanisms;
- Establishing a focal point for WHRDs in diplomatic missions in conflict-affected countries with the necessary resources, visibility and political support to effectively carry out their responsibilities, including protection measures for WHRDs at risk and skill-sharing opportunities to develop the expertise of WHRDs. States should ensure that such focal points receive adequate training for working with human rights defenders and persons at risk and promoting gender equality;
- In conflict affected countries, diplomatic missions should create joint task forces where none yet exists to implement concrete, measurable, strategic measures that enable and protect WHRDs; all such measures should be designed in consultation with WHRDs;
- Taking measures to tackle impunity for violations against WHRDs by promptly and impartially investigating violations, holding perpetrators accountable, and ensuring victims have access to remedies and reparation.

## **12. STATES MUST RATIFY THE ARMS TRADE TREATY AND EFFECTIVELY IMPLEMENT PROVISIONS ON GENDER-BASED VIOLENCE**

The adoption of the Arms Trade Treaty (ATT)<sup>38</sup> was a significant step forward in acknowledging and addressing the role of conventional arms in the commission of crimes under international law and other human rights abuses, including gender-based violence. The treaty prohibits the flow of arms if the sending state knows the weapons would be used to commit abuses.

Importantly, it recognizes that civilian women and children are disproportionately adversely affected by armed conflict and armed violence and requires arms exporting states to assess the risk of their arms being used to commit gender-based violence that could amount to crimes under international law of war crimes, crimes against humanity and genocide (Art. 6), serious violations of international humanitarian law or human rights law (Art. 7(1)) or other serious acts of gender-based violence and violence against women and children (Art.7(4)). Accordingly, Amnesty International recommends:

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<sup>36</sup> *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (1998).

<sup>37</sup> A/RES/68/181, 18 December 2013, at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/68/181](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/181).

<sup>38</sup> A/CONF.217/2013/L.3 (Text of the Arms Trade Treaty as adopted by the United Nations General Assembly). The treaty will enter into force 90 days after its 50<sup>th</sup> ratification (Art 22).

- States ratify the Arms Trade Treaty and implement it into domestic law and policy;
- States refer to independent sources of information when assessing the risk of arms being used to commit sexual and gender-based and other violations, including the UN Secretary-General's Annual Reports on conflict related sexual violence and on children and armed conflict, which list parties to conflict that are credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence or grave violations against children in armed conflict, the UN Special Representatives on Sexual Violence in Armed Conflict and Children in Armed Conflict.

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