



“hd” Centre for Humanitarian Dialogue



STOP RAPE NOW
UN ACTION AGAINST SEXUAL VIOLENCE IN CONFLICT

Conflict Related Sexual Violence and Peace Negotiations: Implementing Security Council Resolution 1820

22-24 June 2009, New York

Preliminary Recommendations for Mediation Processes

Background

On 22-23 June 2009, a group of high-level mediators, subject experts, and women’s rights advocates convened to discuss means of addressing conflict-related sexual violence in peace processes. The Colloquium – organized by UNIFEM, UNDP, DPA, DPKO, and OCHA, on behalf of UN Action Against Sexual Violence in Conflict, and in partnership with the Centre for Humanitarian Dialogue – was a response to OP 3 and OP 12 of Security Council Resolution 1820, which call on the UN system (and the wider international community) to address this issue in efforts at mediation and conflict-resolution.

The purpose of the meeting was to develop practical guidance for mediation teams relating to five aspects of peace agreements: (1) pre-ceasefire humanitarian-access and human-rights agreements; (2) ceasefires and ceasefire monitoring; (3) DDR and SSR arrangements; (4) justice; and (5) reparations and recovery/development.

Detailed technical background papers for each of these five areas were prepared over the preceding months by experts from within and outside the UN system. These were discussed by thematic working groups on 22 June. The result was a set of preliminary core principles for each of the five themes. On 23 June these principles and related process issues were discussed in a series of moderated plenary sessions that drew on the wide-ranging experience of high-level mediators, senior UN officials, and member-states.

The five pages attached to this note set forth, in abbreviated form, the **preliminary** core principles emerging from each of the five thematic areas. Over the coming months, these will be further refined, based on comments received during the Colloquium as well as additional expert input. The intention is to develop these into an Operational Guidance Note along the lines of those that exist for other aspects of peace processes on the DPA’s peacemaker website. A more fully elaborated document, to include research papers commissioned by UNIFEM – analyzing statistics relating to peace agreements, modes of engagement by civil society groups in mediation processes, and other issues – is also planned.

The Colloquium did not seek formal endorsement from the high-level participants of either the core preliminary principles or the analysis set forth in the technical background papers. There was a broad consensus, however, that the approach of the thematic working groups as well as the detailed technical papers had been based on sound analytical premises, appropriate engagement with existing case material, and a realistic understanding of the constraints and opportunities faced by those engaged in peace processes. The structure and content of the

principles themselves were also positively received, and indeed additional recommendations were suggested by mediators, senior UN officials, and member-state participants.

The Colloquium featured frank discussion, rooted in real-world cases, about the many difficulties of incorporating provisions relating to sexual violence into various elements of peace agreements. Obstacles included resource constraints; a lack of systematic data on the intensity, frequency, and circumstances of conflict-related sexual violence; the often weak domestic constituency advocating on this issue; compressed timeframes for concluding agreements; resistance among negotiating parties to full accountability; and failure to ensure adequate numbers of women mediators, negotiators, peacekeepers, and ceasefire monitors.

Nevertheless, there was consensus that far less had been done to advance this issue in peace talks than could be done; that more robust action was possible even within existing mandates; that pressure and support from external actors could be harnessed to ensure that sexual violence was placed more firmly on the negotiating table; and that the upcoming Security Council debate to be held in connection with the release of the Secretary-General's Report on Resolution 1820 could contribute greatly to the advancement of this process by underscoring the need for concrete action to ensure that mediation addresses the variety of issues related to sexual violence.

The plenary discussions on 23 June opened with a frank admission among senior mediators that sexual violence was not something that they had in the past felt themselves specifically mandated to address. The final plenary session ended with a collective acknowledgement among mediators that participation in this event had provided them with the perspectives necessary to see sexual violence as a routine part of their mandate. The presence and supportive remarks of the Secretary-General and the USG for Political Affairs at the Colloquium's concluding event underlined the widespread commitment to implementing this and all other elements of Resolution 1820.

Selected quotations from Colloquium participants

“Sexual violence is not a gender issue...it's not a woman's issue. It's a security issue.”

- **Major General Patrick Cammaert**
Former General Officer Commanding the Eastern Division United Nations Organization Mission in the Democratic Republic of the Congo (MONUC)

“We're not there to administer the crisis but to solve it. We leave it to humanitarian agencies to address sexual violence.... They can document and provide for victims, but cannot stop it. We need to address it as a political/security issue.”

- **Jan Egeland**
Director, Norwegian Institute of International Affairs; and Former UN Undersecretary-General for Humanitarian Affairs and Emergency Relief Coordinator

“A former commander I spoke with said, ‘How can you expect us to tell commanders that their troops can't rape when it's the only thing they have to offer them.’”

- **Elisabeth Rehn**
Minister of State; Independent Expert; Former UN SRSG in Bosnia and Herzegovina; Former Minister of Defence and Minister of Equality Affairs, Republic of Finland; Advisory Board Member, Femmes Africa Solidarité; Member GLF

“When talking about bringing specific perpetrators to justice, the answer from the government was, ‘We are trying to bring peace. Be patient. It will come later. We are spoilers if we push.’”

- **Leila Zerrougui**,
Deputy Special Representative of the Secretary-General; Deputy Head, MONUC

Preliminary Recommended Principles

PRE-CEASEFIRE AGREEMENTS

1. In relation to SC Res 1325:
 - Mediation processes should include gender violence expertise, and participation by survivors and affected communities.
 - Women should be included from the outset of the process, including in negotiation teams.
2. Pre-ceasefire agreements that include commitments by armed groups to respect International Humanitarian Law, International Human Rights law (and institutions), refugee law, and other legal obligations, should specifically refer to prohibitions on engaging in sexual violence and the need to take measures to protect civilians from sexual violence.
3. Mediators should have an in-depth understanding of the the role, intensity, and effects of sexual violence in a given conflict, including through, inter alia, consultation with a wide range of actors beyond the immediate parties.
4. Mediators should ensure that monitoring mechanisms are able to carry out their assigned tasks, including by ensuring the provision of required training, expertise, resources (logistics), funding, and access to security.
5. Mediation must build on past experiences/existing knowledge, and ensure continuity and consistency within present and future mediation efforts.

Preliminary Recommended Principles

CEASEFIRES

Principle 1: Ceasefire agreements should treat sexual violence that is systematic, widespread, or used as a tactic of war as a violation of a ceasefire.

- Provide guidance to mediators for the meaning of SCR 1820 in terms of definitions and language outlining the meaning of systematic, widespread, and tactic of war.
- Ensure that violations of this nature are treated as breaches of a ceasefire agreement similarly to other military violations.

Principle 2: Ceasefire monitoring teams should be trained, tasked and structured to monitor for sexual violence

Structure

- The ceasefire mission and monitoring teams should be integrated and should include all the components of the mission working closely together, including military, police, and civilian.
- The Security Council should recognize the additional human, logistics, and financial resources needed to accomplish these tasks and should work with members to provide these resources.

Approach

- The monitoring of sexual violence should be the responsibility of the entire monitoring structure and not simply individuals trained to address this subject. This should include training for the monitoring team along with mediators and broader sensitization among UN agencies and troop contributing countries.
- Member states should encourage the recruitment of more women in military, police, and civil affairs positions. The deployment of these female troops should be prioritized for conflicts where sexual violence is prevalent.
- Ceasefire information gathering mechanisms should integrate information obtained from NGOs and civil society.

Preliminary Recommended Principles

DDR/SSR

DDR

- DDR programmes and transitional security arrangements should complement and be coordinated with community security initiatives to ensure the protection of civilians in receiving communities from the threat of SV by returning ex-combatants.
- Peace agreements must recognize women and girls associated with armed forces and groups along with female ex-combatants and male ex-combatants as equal beneficiaries of DDR programmes.

Transitional Security

- Transitional security arrangements need to include mandates to combat conflict-related SV, including through police and military responses.
- Transitional security forces must possess the resources, capabilities, and partnerships (integrated structures and processes) to effectively combat SV.
- Security should be delivered through clear processes of command and control with proper accountability.
- Security forces must undergo vetting, specifically with regard to convictions for SV and other violations of international humanitarian and human rights law.
- Systematic monitoring and data collection on SV needs to be undertaken by independent impartial mechanisms (respecting victims' anonymity).

Security Sector Reform

- Security assessments must address security of the state and its citizens and include sexual violence as a security threat.
- Post-conflict security sector institutions and security plans must be mandated and resourced to provide protection from SV.
- Codes of conduct for security actors must include a duty to respond to SV allegations (including sexual misconduct).
- Military and police accountability for SV must be a priority, and domestic legislative frameworks must criminalize SV.

Preliminary Recommended Principles

JUSTICE

1. **Consultations:** The mediator has a responsibility to carry out consultations and research on conflict-related sexual violence, to solicit recommendations from victims, women's groups and civil society, and to apply the findings within the mediation process. Consultations and analysis should take into consideration the limitations of the domestic legal, cultural, and institutional environment in which the agreement will be implemented.
2. **Reporting:** The mandating authorities (e.g. the United Nations, African Union, or other regional bodies) should require regular reporting from the mediator on addressing the issue of sexual violence within the peace process and actions taken.
3. **Ensuring Justice**
 - a. International standards require that certain conduct is excluded from amnesty provisions.
Possible draft language for a peace agreement: *The Parties hereby agree that a general amnesty should be extended to individuals for crimes arising from their conduct during the conflict. Amnesty may not be granted for conduct amounting to the international crimes of genocide, crimes against humanity, war crimes, or gross violations of human rights.*
 - b. There should be a separate and positive mention of a commitment to address sexual violence.
Possible draft language: *Justice processes should ensure that issues of sexual violence are addressed with equal priority to other international crimes.*
4. **Transitional Justice Mechanisms**
 - a. The mediator must undertake broad consultations on accountability mechanisms, including for sexual violence. Mechanisms may include criminal accountability, truth seeking, and reparations, among others.
 - b. Strengthening of national justice and law enforcement institutions must be a priority element of transitional justice.
 - c. Where sexual violence was manifested in the conflict, provisions in the agreement on transitional justice mechanisms should incorporate specific reference to sexual violence and include measures to protect the security and dignity of victims and witnesses.
5. **Challenges:**
 - a. Lack of time and access for the kind of consultations needed
 - b. Conclusions and consultations are limited by the parameters of the mediation

REPARATIONS & ECONOMIC DEVELOPMENT/RECOVERY

1. Peace agreements must address both the immediate and long-term recovery needs of sexual violence survivors, and the lasting social consequences experienced by survivors, their families, and communities affected by SV – including, *inter alia*:
 - Urgent psychological & physical healthcare;
 - Appropriate livelihood support;
 - Public education to end social prejudices that stigmatize victims and their families;
 - Governance and security-sector reform to ensure non-repetition of these violations.
2. Peace agreements must specify measures to ensure the security of CSOs advocating on behalf of and supporting survivors of SV.
3. Mediation teams should commission, at an early stage in the peace process, a comprehensive report on the frequency, distribution, intensity, and circumstances of sexual violence; for use in formulating short- and long-term plans for addressing the needs of survivors.
4. Commissions or task forces mandated by a peace agreement to elaborate the design of a reparations regime or a socio-economic recovery program must exhibit gender balance in decision-making roles and consult extensively with SV survivors to determine their priorities.
5. If a peace agreement delegates the task of elaborating the detailed structure and operation of a reparations regime to such a body, certain minimum parameters must be specified in the peace agreement itself, including:
 - recognition of SV survivors as a distinct beneficiary category;
 - relaxation of evidentiary standards, given the special nature of this crime and the vulnerability of those subjected to it;
 - confidentiality/privacy for sexual violence survivors seeking reparations;
 - a menu of reparation options (material and symbolic, individual and collective) from which claimants can construct an appropriate package of benefits; and
 - guarantees that participation in an administrative reparations programme does not preclude access to further legal redress for survivors.