

Conflict-related sexual violence and sexual exploitation and abuse

Literature review

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1. Introduction

This literature review supports ICAI's review on *The UK's Preventing Sexual Violence in Conflict Initiative* and its accompanying report on *Sexual exploitation and abuse by international peacekeepers*.¹ It summarises recent writings on conflict-related sexual violence (CRSV), in particular evidence on 'what works' to address the myriad practical challenges of programming in this field. Since reliable evidence is scarce, the review will include promising avenues or what can be considered 'better practice', while also indicating programming that has been less than effective and noting gaps in the current knowledge.

Over the past decade, the literature has gradually coalesced around two foundational principles on which programming to address CRSV should be grounded:

- The recognition of a sexual violence continuum. Even though CRSV occurs in a unique environment, namely in conflict settings, it is part of a wider spectrum (or continuum) of gender-based violence that, while predominantly perpetrated against girls and women, is also experienced by boys and men. When distinguishing CRSV from other forms of gender-based violence for programming purposes, it should be kept in mind that neat categorisations are not possible. CRSV, even when kept programmatically separate, occurs within the broader context of gender-based violence.
- The primacy of survivor wellbeing. Effective programming must privilege the perspective of survivors and what they want in terms of support. This entails significantly more than awarding 'voice' or status as 'beneficiaries' to survivors. To consolidate and enhance their long-term wellbeing, survivors of CRSV must become the architects of their own programmes and projects, as part of the path to regaining control over their bodies and lives.

These foundational principles also apply to sexual exploitation and abuse (SEA) – gender-based violence perpetrated by military and civilian staff of international peacekeeping operations. While the bulk of this literature review applies to SEA as a particular form of CRSV, SEA is dealt with through separate procedures, policies and funding streams by the UN and many donors, including the UK. The last section of this review therefore looks specifically at the issue of SEA.

Programmes to address CRSV tend to fall into three categories: prevention; justice and accountability; and survivor care and wellbeing. The research reviewed in this literature review shows that, in general, existing initiatives have not been effective in reducing the prevalence of CRSV, improving survivor wellbeing, or enhancing the delivery of justice and accountability. There is widespread agreement in the expert literature that programming needs to be reconceived and redirected, and that new, innovative forms of programming should be tested. The (limited) evidence available on 'what works' suggests that, to improve effectiveness, programming should be directed towards (in order of priority):

1. Immediate and intermediate-term survivor care.
2. Increasing the resilience and empowerment of women and girls.
3. Innovative programming on prevention and justice and accountability, from which new empirical evidence can be generated.

¹ *The UK's Preventing Sexual Violence in Conflict Initiative*, ICAI, [link](#) and *Sexual exploitation and abuse by international peacekeepers*, ICAI, see ICAI website.

Report structure

The literature review is divided into three sections. We begin with an overview of the research field, focusing on the two foundational principles for CRSV programming; incidence and prevalence data; and causes and drivers. The next section delves into ‘what works’ in the three main areas of programming: prevention; justice and accountability; and survivor care and wellbeing. The final section is dedicated to SEA, analysing how it is both a subset of CRSV and unique, given the particular authority and status of international peacekeeping missions. This section provides an institutional history of SEA, and discusses evidence on justice and accountability and survivor care for SEA survivors.

Approach to empirical evidence

The literature review covers English-language academic, research, and evaluation literature written over the past 15 years, including refereed articles, think tank reports, analyses written by NGOs, and policies produced by donor governments and multilateral international organisations. Relevant literature from the justice development, police development and accountability fields, and on health, has also been consulted.

This report privileges research that produces robust qualitative or quantitative evidence on how to achieve tangible programme outcomes based on measurable and appropriate indicators. Unless specifically identified, programme evaluations whose conclusions rely solely or primarily on data from (1) programme indicators that have not been or cannot be verified or (2) programme indicators that are predominantly or almost exclusively output rather than outcome/result measures, are not considered. Similarly, evaluations whose evidence depends upon ‘most significant change’ or ‘self-reporting’ data are not included, given the subjectivity of the data.

Report terminology

Over the past dozen years, the international community has coalesced around the terminology to be used in discussing sexual violence in conflict areas. This is important, because when terminology and definitions are amorphous, differ, and/or overlap, as had been the case, researchers were left to debate “definitional matters rather than empirical observations or causal inferences, and providing no clear direction for policymakers... [As a result] definitional issues have undoubtedly slowed accumulation of knowledge about the patterns and causes of wartime sexual violence” (Cohen et al., 2013).

Within the international community and among scholars and practitioners, the term ‘conflict-related sexual violence’ is now widely used. The term was introduced in UN Security Council resolution 1325 in 2000, which launched the Women, Peace, and Security agenda. It has been the accepted UN system term since UN Security Council resolution 1820 in 2008. This literature review will use the same terminology.

Those individuals and groups upon whom CRSV has been perpetrated are survivors. The literature review does not use the term ‘victims’ of CRSV, as that wording deprives survivors of their agency, diminishes their resilience, and risks ‘revictimising’ them.² To label survivors as ‘victims’ implies that their primary identity is a body, on which violence has been perpetrated. Such labelling denies them the possibility of regaining control and agency of their body and life, which, as will be argued, undermines survivors’ wellbeing.

² For a discussion of agency and terminology, see Barry (1979) and Connell (1997).

2. Overview of conflict-related sexual violence and sexual exploitation and abuse

This overview is divided into three sections:

- fundamental principles of CRSV and SEA
- estimating the incidence and prevalence of CRSV
- causes and dynamics of CRSV.

2.1 Fundamental principles of CRSV and SEA

The Sexual Violence Continuum

According to a 2019 report by the UN Secretary-General Report, CRSV is defined as:

“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*. That link may be evident in the profile of the perpetrator, who is often affiliated with a State or non-State armed group, which includes terrorist entities; the profile of the victim, who is frequently an actual or perceived member of a political, ethnic or religious minority group or targeted on the basis of actual or perceived sexual orientation or gender identity; the climate of impunity...”(UN, 2019)³

For this literature review it is critical to understand what it means for CRSV to be “directly or indirectly linked to a conflict” or perpetrated in a “climate of impunity”. This suggests that there is a continuum of sexual violence, of which CRSV is a particular subset, and that the existence of this underlying continuum is the first principle for CRSV programming. The former Foreign Secretary William (now Lord) Hague implicitly referred to the continuum of violence when he stated that CRSV “cannot be separated from wider issues of women’s rights” and called for giving the issue of sexual violence a central place in peace building activities, “alongside the economic and political empowerment of women” (FCO and Hague, 2012).

The UN definition of CRSV does not explicitly refer to the sexual violence continuum. Instead it tries to establish boundaries demarcating CRSV, by stating that the ‘climate of impunity’ is “generally associated with State collapse, cross-border consequences such as displacement or trafficking, and/or violations of a ceasefire agreement.” However, a ‘climate of impunity’ can also exist outside conflict settings. Throughout the world, perpetrators of sexual violence can and do act with impunity. In the US, for instance, between 2010 and 2014, it is estimated that only 31% of rape survivors reported their assault to the police; only 5.7% of the alleged perpetrators were arrested; 1.1% were referred to a prosecutor for trial; 0.7% were convicted and only 0.6% incarcerated (Van Dam, 2018). Australian statistics from 2003-04 show that 16% of all sexual assault survivors report the crime to the police and of these only 17% result in a conviction, which is under 1% of the total number

³ The 2019 definition of CRSV has narrowed since 2012. In 2012, CRSV was defined as follows: “conflict-related sexual violence refers to incidents or patterns... of sexual violence, that is rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity against women, men or children. Such incidents or patterns occur in conflict or post-conflict settings or other situations of concern (e.g. political strife). They also have a direct or indirect nexus with the conflict or political strife itself, that is, a temporal, geographical and/or causal link” See UN (2012a, emphasis added).

of reported allegations (CASA, 2019).⁴ In Canada, 12% of sexual assaults reported to the police result in a conviction and 7% in incarceration (Rotenberg, 2017).

Another challenge with defining CRSV as “directly or indirectly linked to a conflict” is how to disentangle “directly” and “indirectly”. The evidence indicates “that even in acutely conflict-affected areas, civilians may be the most common perpetrators of human rights abuses, including sexual violence. Perpetrators include ‘regular people,’ such as teachers, employers, and motorbike drivers, who engage in such behaviour both during and outside of conflict” (Blair et al., 2016).⁵

Conceptually the distinction is tenuous, and for survivors it may be largely irrelevant (Fiske and Shackel, 2015). However, what matters is that, in conflict zones, many, if not all, forms of sexual violence seem to escalate. In the eastern part of the Democratic Republic of the Congo (DRC), for instance, there is

“strong evidence that the number of reported civilian rapes is on the rise... With a 17-fold increase in reported cases of civilian rape and statistically significant declines in the types of rape known to be perpetrated almost exclusively by armed combatants (gang rape and sexual slavery), there appears to be a shift emerging in the nature of sexual violence... Collectively, these findings indicate a kind of ‘normalization’ of sexual violence among the community as a result of widespread rape during the conflict... In focus groups, Congolese men acknowledged that rape had become a norm for young males who had grown up during the conflict in Eastern DRC.” (Van Rooyen et al, 2010)⁶

Unmistakably, this ‘new norm’ is indirectly, if not directly, related to the conflict in eastern DRC. As Cohen et al (2013) state, “[T]o the extent that conflict conditions increase the likelihood of intimate partner sexual violence, such violence is clearly conflict related”, and consequently the ‘new norm’ may best be categorised as CRSV. For instance, in a DFID-funded ‘What Works’ report on sexual violence against women and girls in South Sudan, respondents reported that “the same factors that impact non-partner sexual violence, including the normalisation of violence, breakdown of rule of law, displacement and increasing poverty due to the conflict, were affecting experiences of [intimate partner violence] IPV. In particular, they emphasised how the brutality of IPV had increased since the start of the 2013 conflict” (Murphy et al., 2017: 17).

For this literature review, the issue is not how to characterise the ‘new norm’. The sexual violence continuum ranges from violence perpetrated in non-conflict areas to those committed in conflict zones. Sexual violence pre-dates conflict and is exacerbated by it (Spangaro et al., 2013). For the purposes of this report, CRSV and SEA have distinct features but exist on a broader continuum of sexual violence. It is this continuum that is the first principle for how to understand, think about and develop programming around CRSV and SEA.

It must also be noted that CRSV and the sexual violence continuum is applicable to all types of survivors – straight girls and women, men and boys; Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) of all ages; and refugees and combatants. CRSV occurs in various settings and locations – including internally displaced camps and their surroundings, prisons, military encampments and on battlefields.⁷

⁴ According to news reports, by 2017-18, the number of convictions of reported cases fell to 10%, see Boltje and Blau (2018).

⁵ Distinguishing between sexual violence that is directly and indirectly linked to conflict is particularly difficult in settings where conflict dynamics are closely linked to control over particular natural resources/commodities and industries, such as mining in the Central African Republic and the Democratic Republic of the Congo. For a discussion of mining and sexual violence, see Buss (2018) and Kelly et al. (2014).

⁶ See also Stark and Ager (2011) and Bigio and Vogelstein (2017: 11) who argue that “violence during wartime is thought to normalize gender-based violence in peacetime, exacerbating the costs of this practice after armed conflict has ceased”.

⁷ See, for example, Vu et al (2014) and Ferris (2007).

Primacy of survivor wellbeing

“If I ask you whether you feel like a victim or a survivor, how would you answer? Azra: If I survived 1992, I can survive anything! I feel like a survivor, but the situation in Bosnia now is very uncertain. You know it is very confusing [she cries]. You can survive something – yes, definitely I survived and therefore I am a survivor.” (Skjelsbaek, 2006: 384)

As CRSV and SEA lie on the sexual violence continuum, the underlying principle that guides how to work with sexual violence survivors applies with equal force to both. What this entails is that CRSV and SEA programming, first and foremost, adopt a survivor-first and trauma-informed⁸ approach, which necessitates “respecting survivors as the experts of [sic] their own experiences and supporting survivors’ decisions and choices” (Phillips et al., 2015).⁹ Survivors of CRSV and SEA have had control over their bodies and lives taken from them, and this approach re-establishes and returns their agency. The first step in doing so is to respect the decisions they make as they rebuild their lives in the short, intermediate, and long-term. The programmatic imperative is therefore straightforward: “to validate survivors’ diverse experiences; enhance their feelings of connection, empowerment and engagement; and reduce their social isolation” (Phillips et al., 2015).¹⁰ More than the provision of a defined series of services, a survivor-first approach supports survivors’ resilience with the aim of bolstering their social agency within their community – returning a sense of control over their own life and future (Masson et al., 2018; Graber, 2015; Gecas, 1989).¹¹

A survivor-first approach involves more than just listening to survivors’ voices: it pays careful attention to their wants and prioritises their agency. At the same time, it recognises that resilience and agency exist within cultural contexts and is embedded in communities and social relationships. Fiske and Shackel (2019a) note that focusing on women’s ‘voice’ alone, through “programmes such as women’s empowerment or rights education”, leaves “the economic, social and political structures which underpin their disempowerment, untouched”. Accordingly, embracing a survivor-first approach requires supporting survivors to reassert greater control across multiple socio-economic dimensions, including in relation to the quality and range of the *assets* they control.¹²

The primacy of survivor wellbeing fits well with wider development principles and discussions surrounding rights-based orientation, human security perspectives, and the ‘do no harm’ principle, each of which is a key norm and value in development practice. DFID and the World Health Organization (WHO), for instance, emphasise a rights-based approach to survivors. In the case of DFID,

“a rights-based approach invests in beneficiaries as ‘rights-holders’, creates a legitimate channel for their voices to be heard, and enables them to play an active role in the response to tackling VAWG (violence against women and girls), as opposed to providing support or services on the basis of assumed needs and without consulting beneficiaries. This leads to more successful interventions. A rights-based approach challenges individuals and leaders to

⁸ A trauma-informed approach is premised on the assumption that there has been trauma in individual’s past, current behaviors may be coping mechanisms in response to that trauma, and that treatment does not require a questioning of that traumatic past. Additionally, care provided to the individual treats the whole person rather than single symptoms, offers maximum control to the individual, and provides as much information as possible; see Tello (2019).

⁹ See also Sullivan (2018), Goodman et al. (2016) and Davies (2007).

¹⁰ See also ACHA (N.D: 6) guidelines, which pinpoint the need for “survivors to rebuild a sense of safety, control, and empowerment”.

¹¹ On the intricate relationships between resilience, self-efficacy, coping, and hope with regard to trauma, healthcare and wellness, see Gilman, et al. (2012), Wu (2011), Boehmer et al (2007), and Bandura (1977).

¹² Assets can be defined as economic, political, human, network/relational, and knowledge-centric. Survivors identify what they believe are their assets; health, education, livelihoods, justice, safety, and security – as outcomes – can be defined as assets. Assets exist across four dimensions: (1) within the ambit of any individual survivor; (2) horizontally across survivors and within communities (between individuals, households, and/or communities); (3) vertically from a lower level system to a higher one (from individuals to households, households to communities, communities to higher level systems); and (4) through networks and ‘connections’ or relationships to which survivors have access. See Scheye (2017).

examine and assess their value system and empowers them to make meaningful and sustainable change. It also requires understanding and addressing power inequalities that constrain marginalised women and girls (and men and boys) to actively challenge discriminatory norms.” (DFID, 2016)

Similarly, WHO argues for a “survivor-centred approach”, stating that donor support “should be rights based and contextualize violence against women and girls. The interest of the survivor, and respect for her or his decisions, is of primary importance; all actions must always be guided by a survivor-centred approach and the principles of confidentiality, safety and security, respect and non-discrimination” (WHO, 2012). With regard to SEA, in 2017 the UN Secretary General announced that as the first plank of its new strategy, “the United Nations will elevate the voice of victims themselves and put their rights and dignity at the forefront of our efforts”. The UN Secretary General also stated that “the dignity of victims must remain sacrosanct and we will work to ensure that their rights are respected” (UN, 2017b).

The primacy of the survivor and their wellbeing coincides with the human security perspective, which, by definition, entails a “people-centred” programming approach (UN, 2012b).¹³ As stated by UNDP, “the guiding principle of the human security approach is that it requires an understanding of the particular threats experienced by particular groups of people, as well as the participation of those people in the analysis process” (Gómez and Gasper, 2013: 2). Consequently, “the human being becomes the ‘end’ of development, not only as a ‘means’... [and programming] in turn become[s] ‘people-centred’” (Alkire, 2003: 3-4).

The ‘do no harm’ principle when applied to CRSV and SEA, also prioritises the survivor and their wellbeing (Wallace, 2015: 8).¹⁴ To minimise and/or mitigate risk, survivors’ agency and self-determination must be central to programming. Methodologically, donor support is to be delivered so as to ‘incentivise’ the survivor to ‘buy in’ rather than ‘opt out’ of the development process (Collaborative Learning Projects, 2004). The principal method of ensuring this is to adopt a survivor-first approach.

2.2 Estimating the incidence and prevalence of CRSV

Although prevalence and incidence rates for sexual and intimate partner violence can be relatively accurately estimated using specialised surveys, the same cannot be said for CRSV. In fact, robust data with which to estimate prevalence and incidence rates for CRSV is largely non-existent.¹⁵ There is a particular lack of data on CRSV perpetrated on children (Rowley et al., 2012).

The reasons for this lack of robust data include (1) the instability of areas in conflict zones, which makes research difficult, (2) survivors not reporting CRSV because of stigma, (3) survivors’ fear of reprisal by their perpetrators, and (4) generalised repression by armed groups and governments. As a result, analyses of CRSV state that “documenting the number of war-related sexual assaults is notoriously problematic” (Farr, 2010: 87). In Rwanda, for instance, the margin of error, from the lowest end of the range of CRSV to the highest, is 100% (Farr, 2010). For Sri Lanka, analysts concede that “our knowledge about the exact prevalence of this type of violence remains limited” (Traunmüller et al., 2019). The same holds true for CRSV in Bosnia and Herzegovina, where “22 years on from the end of the fighting, and despite being the most thoroughly investigated conflict to date in terms of

¹³ For a discussion of how the human security agenda merges and can be integrated into a women’s rights perspective on CRSV, see Sahin and Kulsa (2018)

¹⁴ See also UNICEF (2003).

¹⁵ Leaving aside sexual violence perpetrated against boys and men, research indicates that in any individual conflict between 4% and 22% of women will experience sexual violence in conflict, Stark and Ager (2011) and Cohen et al. (2014).

sexual violence, there are still no reliable estimates of the numbers of victims of sexual violence either male or female” (Withers, 2017: 7). In eastern Congo, the rates of CRSV are largely unknown, and while it can be claimed with “some certainty that rates of sexual assault in the Kivus are high, [there is]... little conclusive evidence to suggest that they are, in fact, higher than other conflict contexts,” in contrast to the beliefs of many (Lake et al, 2016).¹⁶

Without delving into the institutional complexities of ascertaining reliable SEA statistics, as this will be addressed in section 4, the same difficulty occurs with regard to SEA. As Grady (2016: 947) concludes, “empirical studies [into SEA]... have been rare – not least because of the complexity of trying to collect data from potentially vulnerable victims in hostile environments”. Dayal and Huvé (2018: 4) could not “draw any clear conclusions [as to rates of SEA] because... new procedures could cause reported rates to vary, mission capacity could affect the number of allegations reported, or results could reveal real differences in the rates of SEA”, depending upon the nature of the peacekeeping mandate. According to official UN statistics, there were less than 1,400 incidents and/or allegations involving peacekeeping personnel from 2003–2012. However, an independent study of SEA in Liberia estimated that about “58,000 women aged 18–30 in 2012 had engaged in transactional sex with U.N. personnel at some point” (Beber et al., 2016: 3). This empirical discrepancy may be due to many factors, but it is evident that the vast majority of survivors of SEA do not report their abuse and exploitation.¹⁷ A panel appointed by the UN Secretary-General to study SEA determined that the “UN does not know how serious the problem of SEA is because the official numbers mask what appears to be significant amounts of underreporting” (Awori et al., 2013: 14).

None of the above suggests that scholars and practitioners should abandon the effort to produce empirically accurate estimates of CRSV, particularly when it is an integral part of and focused on in-the-field programme development. Standardised household and health surveys, perusal of hospital records, and human rights reports are known to produce partial incidence and prevalence data due to sampling challenges (Onsrud et al., 2008; Van Rooyen et al., 2010; Pham et al., 2010; Peterman et al., 2011; Trenholm, et al., 2011). However, new research methods that can be honed to generate more reliable and valid CRSV data may be on the horizon.¹⁸ With regard to SEA, because of the massive under-reporting of alleged violations, efforts to establish prevalence and incidence may best be directed toward establishing and understanding the demographics of perpetrators and the contexts in which the crime occurred.

All prevalence and incidence data cited in this report are acknowledged to be uncertain and are used primarily for illustrative purposes.

2.3 Causes and drivers of CRSV

Given that CRSV belongs on a sexual violence continuum and exists within a global “climate of impunity”, gender inequality and women’s disempowerment play a highly significant role in its perpetuation. Since women and girl survivors far outnumber men and boys, all efforts to address CRSV must begin with an analysis of gender. However, gender inequality cannot explain why, for instance, during the civil war in Sierra Leone more CRSV was perpetrated by an armed group whose fighters were composed of a higher percentage of members from an

¹⁶ See also Human Security Report Project (2012) on highly divergent prevalence figures for the civil war in Liberia.

¹⁷ In Haiti, a researcher interviewed 42 survivors of SEA, of whom only four reported their abuse to the UN peace operation, see *Redress* (2017).

¹⁸ See Traunmüller et al. (2019), a survey methodology called ‘list experiment’ was used to estimate the number of males displaced by the civil war who were survivors of sexual assault.

ethnic group with “stronger norms about gender equality” than other Sierra Leonean armed groups (Maddux and Labrosse, 2018: 18).

Even when coupled with militarised masculinity (Eicher, 2014; Whitworth, 2004; Enloe, 2000), gender inequality is a necessary but insufficient condition to explain CRSV. This is for a number of reasons.

First of all, men are also survivors¹⁹ of CRSV and women can be perpetrators. A Sri Lankan study of men who were displaced by the civil war estimated that 29% of all displaced men experienced sexual violence (Traunmüller et al., 2019). Varying studies of CRSV in Peru indicated that roughly 22% of all survivors were men (Leiby, 2009), while 32% of its political prisoners were male survivors (Ackerman, 2015). In El Salvador, the number of male survivors among political prisoners may have been as high as 66% (Ackerman, 2015). In Liberia, whereas 42% of all female combatants are estimated to be CRSV survivors, 33% of the male fighters were (Johnson et al., 2008). In eastern DRC, a study indicated that approximately 41% of female survivors were also attacked by female perpetrators, as were 10% of male survivors (Johnson et al., 2010).²⁰ And finally, it is believed that female combatants participated in about a quarter of the incidents of gang rape during Sierra Leone’s civil war (Maddux and Labrosse, 2018).

Second, once a war has broken out “the relative level of gender inequality in a particular country... does not help us distinguish between countries that have wars with high levels of rape and countries that have wars with low levels of rape” (Maddux and Labrosse, 2018). Nor does it explain the variations within a country. For example, there have been low levels of reported incidents in the various Arab-Israeli wars (Wood, 2006). In the civil war in Bosnia and Herzegovina CRSV flourished (Wood, 2006), while in Peru, Honduras, and El Salvador the state’s security services were the perpetrators and not the anti-government forces (Leiby, 2009; Ackerman and Furman, 2015). The Tamil Tigers, generally, did not commit CRSV, while the security and intelligence services of the Sri Lankan government did (Wood, 2009). Gender inequality simply does not explain these variations, as “the frequency of rape of civilians and other forms of sexual violence varies dramatically across conflicts, armed groups within conflict, and units within armed groups” (Wood, 2009: 132; see also Cohen et al.: 5). In Sierra Leone’s civil war, only one out of the many armed groups – the Revolutionary United Front – was responsible for much of the rape and gang rape during the conflict (Wood, 2018: 3). Kelly (2010: 3) argues that “the reality of wartime rape is unexpectedly complicated, and that the pervasiveness of sexual violence varies across and within conflicts. Various parties may use sexual and gender based violence (SGBV) differently in the same dispute, and the types and prevalence of SGBV may change both temporally and geographically... A group’s repertoire of violence may change over time; it may serve the strategic aims of the groups or be a pattern of individual exploitation that has reached large proportions”.

There is no single theory or cause for CRSV (Aranburu, 2010). To grapple with the causes and, therefore, be able to design programmes to address the challenge, scholars and practitioners need to examine how CRSV is perpetrated in specific countries and contexts. At the macro level there may be broad generalised patterns (Farr, 2010: 99). It seems to be the case, for example, that “state forces are more likely than rebels or pro-government militias to be reported as perpetrators of sexual violence” (Bigio and Vogelstein, 2017: 5). In Africa, for instance, “of the government actors included in [the study] 64 percent were reported as perpetrators of sexual violence... as opposed to 31 percent of rebel groups and 29 percent of militias” (Cohen et al., 2013).

¹⁹ For a discussion of male survivors, see Sivakumaran (2007).

²⁰ See also Elbert, et al (2013), where it is indicated that a “total 12 percent [of the combatants studied] reported that they had been sexually assaulted themselves. In most cases the perpetrator was the commander of the victim” p.34.

Furthermore, “statistical analysis confirms that armed organizations that forcibly recruit through abduction... or press-ganging... are more likely to engage in frequent rape” (Maddux and Labrosee, 2018: 2).

There are also different patterns in different contexts. In Peru, for example, CRSV was predominantly individualised, taking place in state prisons, where it is evident that senior state officials were aware of the crimes committed and may have ordered them. The same applies to El Salvador. However, in other cases, CRSV has taken different forms. In southern Kivu in eastern Congo, for instance, “military rape... is marked with a predominance of gang rape, which was described by almost 60% of sexual violence survivors presenting”, in sharp contrast to violence committed by civilians, who raped in gangs only 1% of the time (Van Rooyen et al., 2010: 14; see also Theidon, 2007). The differences in where the violence occurred were also striking, creating a recognisable and distinct pattern of violence. Koos (2017: 2) notes that CRSV is “associated with more brutal acts of rape, including in public spaces, with objects and torture”.

What this suggests is that an assessment of the basic typologies of CRSV must be among the first steps in designing a CRSV programme. The basic questions of this initial assessment should include:

- who are the individual perpetrators and survivors?
- who are the groups/organised units to which these individuals belong?
- in what locations is the violence occurring?
- what types of acts of sexual violence are being perpetrated?
- what are the cultural/societal norms and values?
- what is the context of the civil strife in which the violence takes place?

Once this initial assessment has been completed, scholars and practitioners need to delve deeper to begin to understand the possible dynamics – the ‘hows’ and ‘whys’ – of the violence and its immediate causes. This second-level assessment of the dynamics of CRSV seeks to explain the differences and variations in CRSV in different contexts. Research indicates that these dynamics fall into three categories:

- individual
- strategic goals
- group dynamics.

These three categories, taken together, go a fair way in accounting for the variations in and drivers of CRSV, although knowledge gaps remain. Of the three, the latter two may have greater explanatory power.

Individual-level ‘driving’ factors

CRSV is often claimed to be a ‘crime of opportunity’, or acts perpetrated due to ‘the spoils of war’, and ‘its craziness’ (Baaz and Stern, 2008: 76), terminology which panders to the belief that combatants are unable to control their sexual urges and that it is the ‘state of war’ itself that feeds sexual violence.²¹ While there may be some validity to presuppositions about war and militarised masculinity, this broad assertion cannot explain differences across countries, within war zones, among different groups of combatants and/or within a given unit. It is probable that individualised sexual violence in conflict is more than merely situational, and is more socially conditioned.

Studies conducted in eastern DRC suggest a range of ‘causes’ for individuals committing sexual violence. Many combatants joined armed groups due to a lack of opportunity and to gain employment and an education (Baaz and Stern, 2008). When these benefits were not accessible, their status as military men was not socially

²¹ Elbert et al. (2013, p. V), note that “combatants get out of control” was cited by 82% of the sample of combatants as a reason for committing CRSV.

respected, their salaries withheld and food scarce, their response was sexual violence. In this understanding, CRSV committed by individuals is, essentially, a form of retribution made possible in the 'climate of impunity' characterising conflict settings. This finding was echoed by another study of eastern Congolese combatants (Elbert et al., 2013), where 54% of the sample cited "frustration" as a cause of CRSV. The same article notes that another individualised 'cause' of sexual violence is when combatants seek revenge, often for the loss of colleagues. Taken together, these 'reasons' offer greater understanding about why individuals commit CRSV and need to be considered when programmes are designed.

Strategic goals: sexual violence as a military objective

The same eastern DRC study cited above, however, noted that "overall, more than one quarter [of the survey sample of combatants] agreed that violence against women happens because combatants/ soldiers are ordered to do it" (Elbert et al., 2013: 49). This categorises CRSV as a 'weapon of war', typically employed to achieve the armed group's larger ideological and/or political goals. CRSV is purposefully committed to further a defined group objective. "[I]t is ordered, even if not explicitly..." (Cohen et al., 2013: 10). The strategic or political goals for which CRSV is committed vary widely. Among the many purposes for which CRSV is perpetrated are, instilling terror among a defined demographic group, displacing populations, and shaming the men and women who are subjected to CRSV as well as those who cannot protect their loved ones or communities (Wood, 2006, 2009; Cohen 2016). "Common forms of strategic rape are rape carried out during some campaigns of ethnic cleansing and rape as sexual torture of prisoners" (Cohen et al., 2013: 10).

Consequently, whether or not explicit orders were given or the crimes were 'tolerated' by superiors, this characterisation of CRSV as a strategic action applies, without question, to the violence perpetrated on the political prisoners in the jails of Peru and El Salvador. In the same way, it applies to much of the CRSV committed in Bosnia and Herzegovina, Darfur, Bangladesh and Rwanda.

The absence of CRSV committed by groups of combatants, as well as the instances where individual perpetrations are identified and punished, also require explanation. This is especially true when other armed groups against whom they are fighting do engage in sexual violence. In these circumstances, the relative absence of CRSV may serve a definitive strategic objective (Humphreys and Weinstein, 2006: 430). The record of the Tamil Tigers and the anti-state combatants of El Salvador and Honduras are cases in point, particularly given the CRSV committed by the armed groups arrayed against them.

Group dynamics

Recruitment into an armed group that relies upon abduction tends to result in increased incidence of CRSV by members of that group, which suggests the third variable in the explanation of the drivers of CRSV: the internal structure, composition, and recruitment of armed groups, which may best explain CRSV differences between armed groups. In the case of Sierra Leone, for example, "the internal factional attributes including the characteristics of a group's membership, how they were recruited, and how they relate to one another are key factors that help to explain variation in levels of abuse". (Humphreys and Weinstein, 2006: 441).

Group dynamics play out in at least three different ways, each of which presents a different dimension of group cohesion:

- chain of command
- privatised 'group' goals
- bonding, cohesion, and socialisation.

All armed groups have chains of command. Command hierarchies can be strong or weak, depending on whether the orders promulgated through the chain of command are carried out or not. If a group has a weak chain of command it is more likely that CRSV will “proliferate... even in the absence of a deliberate strategy” (Bigio and Vogelstein, 2017: 5).

Individuals can be recruited into armed units from ethnically homogeneous or heterogeneous groups. The more heterogeneous the group, the more likely it is that its chain of command will be weak, increasing the prevalence of CRSV, unless an objective is found around which the group can coalesce. A common goal for the unit needs not necessarily be a ‘political’ one, but can be a ‘privatised’ objective, such as armed groups controlling and exploiting natural resources (Humphreys and Weinstein, 2006; Cohen, 2013). CRSV programmes therefore need to be grounded in sound assessments not only about the internal structure of the group, but also the nature of the common ‘privatised’ goal around which it coheres.

Lastly, armed groups may engage in CRSV in order to bond disparate individuals into a group.

“force new recruits to engage in gang rape of civilians, which forges social bonds among units on the ground. Rape and gang rape are not typically or commonly adopted as organizational policies... but are tolerated by commanders. Female as well as male combatants may be forced to participate. Thus rape, particularly gang rape, can be frequent without being adopted as a strategy, tactic or weapon of war.” (Wood, 2018: 2)

The atrocity of CRSV itself becomes the “source of group cohesion and a bulwark against betrayal” (Wood, 2009: 139). This form of social bonding and socialisation may be most problematic and dangerous when combatants are recruited into a group through abduction and force (Bigio and Vogelstein, 2017: 6; Cohen 2013).²²

3. What works and lessons learned in CRSV programming

This section is divided into three parts:

- prevention
- justice and accountability
- survivor care and wellbeing.

3.1 Prevention

Efforts to prevent sexual violence in conflict zones are a subset of more generalised initiatives to reduce gender-based violence (GBV). In this literature review, prevention is understood to include attempts to stop the violence *before* it occurs – often also called ‘primary prevention’.

There are three distinct dimensions to sexual violence prevention in conflict areas. They are:

- initiatives designed to directly address the causes of CRSV
- efforts to reduce, mitigate and/or manage the risk of CRSV to identifiable demographic groups living in conflict zones

²² For further discussion on the topic of socialisation and violence, see the articles compiled in volume 54(5), 2017, of the *Journal of Peace Research*, particularly Checkel (2017).

- projects that have been proven to be effective in reducing sexual violence in contexts and environments other than those in conflict.

Unfortunately, there is little robust empirical data on ‘what works’ to prevent CRSV across all three dimensions.²³ Programmes or projects that directly address the causes and dynamics of CRSV in order to prevent sexual violence are rare. The research for this literature review did not find any initiatives seeking to prevent CRSV arising out of either a strategic goal or the internal structure and group dynamics of combatants. Efforts to reduce the vulnerability of women and girls, boys and men to CRSV through mitigation strategies, and for which reliable outcome data exists, are also scarce. In low- to middle-income countries, “there is little evidence as yet for [programmatic] effectiveness” on preventing sexual violence other than targeted work on female genital mutilation and child marriage (Ellsberg et al., 2015: 1558).²⁴

Another approach to understanding how to prevent CRSV is by considering initiatives that address gender inequality and women’s disempowerment more generally. For instance, the results of the ICAI (2016) evaluation on eliminating violence against women and girls,²⁵ as well as the DFID (2017) summary of evidence for its ‘What Works to Prevent Violence against Women and Girls’ programmes,²⁶ may also hint at effective approaches in conflict settings. The ‘What Works’ summary does note that there are “several rigorous impact evaluations of programmes in the pipeline” and that evidence may confirm what scholars and practitioners suspect could be effective approaches. The rest of this sub-section on prevention looks at the evidence on initiatives to prevent sexual violence outside conflict settings. The challenge for CRSV, however, is whether those findings are transferable to areas in conflict – given the dissimilarity of contexts and the particularity of underlying causes and dynamics of sexual violence in conflict areas (as discussed in section 2).

Preventing sexual violence: the empirical evidence (outside conflict settings)

Over the past few years, there have been a number of meta-evaluations of programming to prevent sexual violence²⁷ and, as is described below, the results of each analysis have been broadly the same. A WHO/London School of Hygiene and Tropical Medicine (2010) study cautiously indicates the theoretical possibility of effective programming to prevent sexual violence, but observes that its realisation remains in the future and awaits systematic implementation and evaluation. Spangaro et al. (2013) examined peer-reviewed

²³ This literature review included surveying the UK government funded ‘What Works’ website for prevention initiatives and found no projects that directly dealt with CRSV. A ‘What Works’ synthesis review published in September 2019 combined research at sites in South Sudan with an overview of recent research literature (Murphy et al., 2019). It found that there is a limited but growing body of research on violence against women and girls in conflict settings. The South Sudan studies confirmed that sexual violence, in general, increases dramatically during conflict. Another ‘What Works’ report describes a project in the DRC (see Bezzolato et al., 2019) that sought to reduce sexual violence, which worked in small and remote rural communities. While its awareness and dialogue project aimed at faith and community leaders suggested a reduction in intimate partner violence and a positive changes in attitudes and knowledge, its results were anecdotal.

²⁴ The actual number of projects that are susceptible to evaluation is small: “half of the studies in low-income and middle-income countries (nine of 18) addressed child marriage or female genital mutilation, followed by intimate partner violence (seven), with non-partner sexual assault and multiple types of violence each represented by one study” (p.1556)

²⁵ The evaluation is carefully worded, indicating that there are “promising global programmes” (p.i) on ending female genital mutilation/cutting and child marriage and that the “most successful interventions are likely to be multi-sectoral” (p.15). The evaluation does not state that the empirical evidence is more than suggestive and indicative.

²⁶ This What Works Summary indicates that the following initiatives have “fair” evidence to support their implementation: “group based relationship-level interventions working with males and females...; group based microfinance combined with gender-transformative approaches...; community mobilisation interventions to change social norms; interventions that target boys and men (alongside women and girls) through group education combined with community mobilisation; and parenting programmes” (DFID, 2017: 5). The Summary also references the 2016 ICAI report and describes the ICAI finding on “multi-sectoral approaches”, for “although, there is increasing evidence to point to the value of combination interventions and multi-sector interventions, there have been a very limited number of studies on these” (DFID, 2017: 4).

²⁷ A study conducted for the US National Institute of Justice concluded that “little is known about the effectiveness of sexual assault preventive interventions... in deterring future sexual violence”. Among the challenges stated is the absence of a conceptual plausible theory of change (Morrison et al., 2004: vii and ES-2).

journal articles, as well as published and unpublished grey literature studies conducted between January 1990 and August 2011, and found only 20 that reported on outcomes:

“14 had a low or medium-low Weight of Evidence (WOE) rating. No studies had a WOE rating greater than medium-high... None of the studies set out to systematically and prospectively address the impact on incidence of sexual violence as a result of interventions... [and] there was no evidence for reduced incidence as a result of other interventions.” (Spangaro et al., 2013: 7)

The study also concluded that “evidence for reduced risk [to women and girls] is weak” (Spangaro et al.: 10).²⁸

DeGue et al. (2014) conducted a systemic review of 140 separate evaluations of programmes to prevent sexual violence in the US and found only two types of initiatives that produced concrete and measurable outcomes and results – promoting a “safe dating” curriculum to school children in their early teens and in one school building to change social norms and boundaries. Jewkes et al. (2015) produced a Lancet review of sexual violence prevention endeavours, identifying 65 high-quality projects, of which 85% were conducted in high-income countries and 90% of those in school and university settings. Only eight of them could be considered to have reliable results and, of these, only two, both school-based initiatives, reduced male perpetration of violence. The review further found that, while a reduction of violence has not been achieved, there has been some success in projects changing gender roles and norms, with five of twelve such initiatives exhibiting positive effects. The study concluded that no reliable evidence exists to suggest that efforts to work directly with male perpetrators have produced notable reductions of recidivism.

Finally, Robbers and Morgan (2017) conducted a systemic review to determine ‘what works’ for preventing sexual violence against female refugees. Filtering a sample of 1,422 analyses for evaluability, as well as those whose indicators produced valid outcomes, produced only 29 articles. Of these, only three were considered to have sufficiently strong statistical standards to be deemed significant.

Indicative evidence – Risk reduction, mitigation and management

Despite the lack of reliable empirical data, and even though there is little work directly addressing the causes and dynamics of CRSV, indications exist of what works to reduce or mitigate the risks and vulnerabilities of women and girls that arise from gender inequality and women’s disempowerment. Such interventions are one step removed from directly engaging in prevention, in that they attempt to improve the overall environment in which women and girls live and work.

According to Spangaro et al. (2013: 5), the “largest group” of such initiatives aimed at affecting the overall environment combine “multiple” overlapping strategies to prevent violence. Ellsberg et al. (2015: 1555) indicate that there is “promising evidence on the effect of group training for women and men, community mobilisation interventions, and combined livelihood and training interventions for women.” The review found, for instance, that efforts to empower adolescent girls in Kenya and Uganda appear to have had positive effects in reducing “coerced sex” where the initiatives combined vocational training, life skills, and self-defence tactics (Ellsberg, 2015: 1560). However, it also noted that there are contradictory findings on interventions that combined women’s economic empowerment with dialogue groups on intimate partner violence. The results of endeavours to reduce sexual violence by improving women’s economic empowerment are also mixed (Ellsberg, 2015: 1563; see also Robbers and Morgan, 2017).

²⁸ The evaluation did observe that one project had anecdotal evidence of a reduction of women and girls’ exposure to sexual violence when collecting firewood.

It must be underscored, however, that these projects are not really underpinned by reliable empirical evidence and none work specifically on the causes of CRSV. Nevertheless, they point to possible ways forward for programming to lessen sexual violence against women and girls in non-conflict areas. How these methods transfer to conflict zones is an open question, but one that innovative programmes can begin to answer.

3.2 Justice and Accountability

“We [Congolese women] do not only want justice, but we also want to be heard. All they [international actors] know is Congolese women are raped, all they mention is how unsafe we are, but they don’t mention how we fight, how every day we still have to go to the markets and sell. I got tired of being a victim. I wasn’t a victim because I had to wake up every day...”
(quoted in Sahin and Kula, 2018: 14-15)

“[W]hat I would like them to do when they get that perpetrator, after arresting him, I should get my own rights as a woman.

As a woman, to give me money that’s to help me survive with my kids or buy me clothes, where I can build the house and live with my kids.

To have justice is to be paid what is due to you. If something had been taken from you, when you go to the authority, they would say, you are wrong, and this one is right. You have to give him what is due to him. And when he receives what is due to him, he feels free”.
(quotes from Congolese women interviewed by Shackel and Fiske, 2016: 37)

Since survivor wellbeing is a foundational principle of CRSV programming, justice and accountability programming must always be guided by the twin questions: justice for whom and accountability to whom? The question to ask is: “which type of legal set-up would best allow survivors who wish to seek redress to access the legal system; whether entering the justice system is beneficial or harmful to the survivor; and whether the outcomes are relevant to improving the quality of life of the survivor”? (Schopper, 2014: 593).

As the quotes above from Congolese survivors suggest, justice and accountability are both more and less than a criminal justice/prosecution first model in which the state assumes responsibility for the harm perpetrated on an individual, brings an alleged defendant into court, and prosecutes. Without question, juridical redress is a vital component of justice and accountability, but the challenge is to know how high this ranks among survivors’ own objectives. For Congolese survivors, for instance, it is clear that other priorities come first.²⁹

What survivors want and how they understand justice and accountability will vary from country to country, province to province, and survivor to survivor. In the DRC, for instance

“many women talked about justice not as an aspiration or an ideal grounded in principle, but rather as a functional tool – a fundamental resource... Most commonly, women characterised

²⁹ “Research on local communities in eastern DRC shows that their priorities are peace (51%), security (34%), money (27%), education (26%) and food and water (26%). Notably, justice (2%) and reconciliation (1%) received comparatively small proportions of the total responses” (Sahin and Kula, 2018: 15). Another study, based upon differing samples, indicated that “When asked whether they would like to see their attacker arrested for the crime of rape, 58% of women said they would. Women who answered “no” often expressed scepticism about the capacity of the police force to carry out arrests rather than a lack of desire to see their attacker punished. A smaller proportion of women (48.2%) responded “yes” to the question: “Would you personally be willing to pursue legal action against your assailant?” (Kelly et al., 2011).

justice and its purpose in either restorative and/or remedial terms... Justice was viewed by many women as essential to women rebuilding their lives post-conflict. Many women saw justice as a vehicle for restoring peace, for reconciliation, and for assuring their safety, health, and well-being; importantly, it was also perceived as essential for restoring their dignity and status in the eyes of their community.” (Shackel and Fiske, 2016: 35)

In a study of why women survivors in the DRC turn to domestic courts, Lake et al. (2016) found a range of motivations:

“Many interviewees expressed a sense of agency and empowerment at being able to utilize legal tools to seek symbolic and material redress... Others were drawn to legal avenues by the promise of reparations or other forms of much needed material assistance, such as free healthcare or child support offered by legal aid programs. Often, actors turned to legal avenues as a form of last resort, viewing the pursuit of civil and criminal charges against perpetrators as the only way they could access necessary socio-economic support structures. Others still expressed many of these sentiments simultaneously, espousing the injustices of the violence committed against them but reiterating their urgent and overriding need for practical material support. In spite of overwhelmingly negative experiences in practice, many interviewees nonetheless found validation in the pursuit of legal justice, even when the process failed spectacularly to deliver on its most basic of promises to them. Despite feeling deeply betrayed by what the law had promised, therefore, many nevertheless professed that they were pleased to have reported their cases to legal authorities and that they would do so again under similar circumstances.” (Lake et al., 2016: 541)

To survivors, justice and accountability can be realised in practical ways. It can be made concrete with a focus on restoration, reparation and reconciliation, as well as by “creating pathways for education” for survivors and their children (Shackel and Fiske, 2016: 39). For survivors, it is unlikely that their vision of justice and accountability coincides with a criminal justice/prosecution first model. Lake et al. (2016: 554), for instance, suggest that “the overarching motivation for turning to the law in eastern DR Congo is the pursuit of material gain”. However, survivors define justice and accountability and what it represents as part of regaining agency.

Grounding CRSV justice and accountability programming in survivor wellbeing not only adheres to the second foundational principle, but also, as this literature review shows, coincides with the limited empirical knowledge of ‘what works’ for effective justice and accountability programming. There are three distinct approaches to CRSV justice and accountability programming, which are:

- initiatives designed to advance CRSV-specific justice and accountability
- programmes that seek to tackle the challenge of sexual violence in general, particularly against women and girls
- efforts to improve justice and accountability in either conflict areas or in post-conflict environments.

CRSV-specific justice and accountability³⁰

With one notable exception, the literature consulted for this review concludes that CRSV justice and accountability programming has been ineffective. Justice is “too often... approached as a ‘thing’ to be delivered to a community or country seen as lacking ‘capacity’” (Fiske and Shackel, 2019a: 4). As one review concluded, “current security-sector efforts to address sexual violence in conflict are inadequate, plagued by insufficient training for peacekeepers, limited accountability through national and international judicial systems, and

³⁰ The Literature Review concentrates on national justice and accountability activities, not the work of international courts.

resource gaps” (Bigio and Vogelstein, 2017: 1). Another reported that in Rwanda and the former Yugoslavian countries, “overall, despite the extensive work undertaken in developing policy, guidelines, training programs and legal responses, five studies concluded that actual implementation of interventions remained flawed or limited” (Spangaro et al., 2013: 7).

More specifically, in Sri Lanka, despite the prevalence of male survivors,

“there is no known case in which conflict-related sexual violence against men and boys has been prosecuted... Senior police officers speaking under conditions of anonymity maintained that no cases of sexual violence against male Tamils have been investigated or brought before the courts because no complaints have been received by the police. However, although many survivors do not report for the reasons set out above, this contradicts the experience of human rights defenders in Sri Lanka who are aware of attempts by male victims of sexual violence to report crimes, but where the police have either refused to record the complaint or have dissuaded victims from pursuing it.” (Withers, 2017: 25)

In the DRC, the international community has been fully engaged in and undertaken widespread CRSV justice and accountability work. Among the interventions have been wholesale capacity building to strengthen the overall national juridical systems; UN efforts to train judicial officers on reparation, protection measures, ethics and investigation techniques; training and capacity building focused on specific crimes and rights related to CRSV; and projects to sensitize lawyers, magistrates and judges on CRSV crimes and to protect survivors and witnesses. “Although projects such as training judicial officers and operating legal aid clinics and mobile hearings are important to improve access to justice and the legal system, they do not deal with preventing CRSV crimes...” (Sahin and Kula, 2018: 12). Shackel and Fiske (2016: 25) conclude that, despite “the widespread documented mass atrocities in DRC, the small number of cases investigated at national level is disquieting. The International Centre for Transitional Justice (ICTJ) have identified only 39 prosecutions of serious crimes committed in eastern DRC that have been initiated by the national jurisdiction over the period of 2009–2014”.

More specifically, with regard to the Congolese military, international justice and accountability endeavours have proven to be largely ineffective, even though the UN has reported that there have been 187 convictions in military courts from July 2011 to December 2013. Of those convicted, “only three were senior officers, namely lieutenant colonels” (Human Rights Watch, 2014). This is a limited result after years of international support for military courts, the training of military justice staff, and capacity building initiatives.

The one exception to this record of largely ineffective CRSV justice and accountability programming are the mobile courts in eastern DRC (Khan and Wormington, 2011; Open Society Foundations, 2013; Maya, 2012; Rispo, 2014). In 2004 international assistance began to support mobile courts, and in 2008 aid was directed to the courts for the prosecution of CRSV. The objective of the initiative was to bring state criminal courts to remote areas and, thereby, improve justice for women in their communities (Shackel and Fiske, 2016). These courts have proven to be effective:

“In its first 36 months of operation (from October 2009 through October 2012), a mobile gender court operating in South Kivu made important progress toward meeting the urgent need to bring justice closer to citizens by holding 20 court sessions in remote areas of the province. It heard 382 cases, with 204 convictions for rape, 82 convictions for other offenses, and 67 acquittals.” (Open Society Foundations, 2013)

From 2009 to 2014, mobile courts in eastern DRC heard more than a thousand cases, of which up to 75% were rape charges (Rispo, 2014). Conviction rates average 60% to 78% (Shackel and Fiske, 2016). This remarkable achievement has brought a degree of justice to many survivors.

These courts, however, are also costly and their sustainability is debatable, as is the entire judicial structure. According to Maya (2012), “the cost of a typical, two-week mobile court is \$45,000-\$60,000, during which time the court can hear about 15 cases. This translates into \$3,000-4,000 per case, with cases heard in bricks and mortar courthouses costing significantly less to adjudicate”. But these costs only refer to operational expenses and do not include those for salaries, training, equipment, and the costs of the NGOs and internationals who backstop the entire mobile court system. In fact, the mobile courts are not only the creation of the international community, but they could not exist without the continued day-to-day work and money of non-Congolese.

In many ways, the mobile courts are a foreign anomaly inside the DRC, where “external actors... direct the work of the justice sector toward the prosecution of SGBV at three distinct levels of governance” (Lake, 2014). Lake describes the result as a distorted judicial system that resembles past colonial practices, as foreigners have largely replaced and become the Congolese state. It cannot be overlooked that the achievements of the system benefit survivors.³¹ But the imposed nature, structure, and operation of the courts cannot be ignored either, with “international NGOs coordinating court schedules, collecting evidence, recruiting witnesses, and other tasks that would normally fall under the jurisdiction of different arms of the state” (Lake, 2014). Autesserre (2012) and Douma and Hilhorst (2012) suggest that this dominance by international actors has detrimental effects on the development of Congo’s justice sector.

There have been allegations that some survivors have been re-victimized by the ways in which they have been treated by the judicial system. It is alleged that survivors could only receive medical, psycho-social and other support if they provided testimony against their perpetrators. In fact, “many of the victims... saw their participation in a criminal case as an avenue—and sometimes the only viable avenue—through which they could access social, medical, and economic support that they desperately needed” (Lake et al., 2016: 559).³²

The eastern DRC does not seem to be an isolated case of services and support being made conditional on the survivor providing court testimony. For instance, at a conference on sexual violence in conflict, participants agreed that:

“survivors will continue to be reluctant to come forward if they cannot access basic services, including health care and education, or live secure and dignified lives. Legal assistance should be linked to holistic services, with referral pathways in place for survivors who come forward to provide evidence and testimony.” (UNDP, 2018: 3)

Lake et al. (2016: 562) also found that “even when NGOs had supported them, victims were often cast aside after their role in giving testimony was over. They were rarely kept informed of the outcome or progress of their case, either by their legal representatives, by NGOs, or by the court itself.”

Sexual violence and justice and accountability

With the possible exception of mobile courts, the lack of evidence of effective CRSV justice and accountability programming and knowledge of ‘what works’ mirrors the sparse lessons learned and ‘what works’ guides on tackling sexual violence more generally, regardless of whether it is in conflict, post-conflict, fragile state or

³¹ The treatment of many of the survivors in the courts is reported to have been sensitive and in accord with the latest protections and assistance (Lake, 2014).

³² International aid agencies and NGOs have also been criticised by survivors for exploiting them as “marketing” tools to raise funds and donations, see Trenholm et al. (2011).

western developed country contexts. With respect to conflict zones, as the UK-funded “What Works” programme has concluded, other than protection orders and safe spaces, there is

“insufficient evidence to recommend... most of the... police and legal interventions, including police training, sexual offender policies, disruption plans, community policing, women’s police stations, and paralegal interventions and community-based legal interventions (although these show some promise); crisis interventions including hot lines and One Stop Centres; alternative or restorative justice mechanisms...” (DFID, 2017: 5)³³

In development environments, one of the default initiatives has been to establish special police units and stations. This initiative was initially piloted throughout Latin America and has been replicated by the international community in, for instance, Sierra Leone, Myanmar, Cambodia, and Liberia, among many other countries. While unquestionably these units and stations are successful in increasing women’s confidence in reporting violence perpetrated against them and, therefore, increase the chance of survivors receiving medical attention and counselling, they do not decrease the incidence of sexual violence or increase successful prosecutions (UN Women, 2011; Morrison et al., 2007: 37). This is not a critique of these initiatives, but rather a recognition of the results they are capable of generating, as well as their limitations.

In the developed world, some justice and accountability approaches to intimate partner violence have shown that they can be effective in increasing arrests and prosecutions. For instance, greater collaboration between

“law enforcement, health, and social services... can [as has been demonstrated in the United States] significantly improve law enforcement outcomes in cases of gender-based violence, such as number of arrests, percentage of cases resulting in prosecution and the percentage of men ordered to attend batterer treatment programs as part of sentencing.” (Morrison et al., 2007: 35)

The arrest of the perpetrator can, in many instances, reduce recidivism and re-offending, though in others it may, actually, increase the risk of violence (Garner and Maxwell, 2000). However, what seems most effective at reducing recidivism is a coordinated response that includes the community, police, and prosecution (Murphy, 1998).³⁴ It is the community or neighbourhood and how it supports survivors that is key, a finding that echoes what the Congolese survivors were calling for.

Despite community engagement, it must be noted, that there is little empirical evidence to suggest that a coordinated criminal justice approach actually decreases the incidence of sexual violence or increases successful prosecutions. It is also clear that ‘what works’ in developed countries and with respect to intimate partner violence is not easily transferable to sexual violence in conflict settings. The endemic and chronic lack of capacity, financial and human resources, and sound management of criminal justice systems in conflict areas precludes this. However, the importance of community involvement gives an idea of ‘what *might* work’ for CRSV justice and accountability programming.

³³ See also Ellsberg et al. (2015: 1558), which concludes “there is little evidence as yet for effectiveness. Qualitative research suggests that training and improved legislation alone do not improve outcomes for women or reduce violence at a community level, and that system-wide changes are needed to improve the enforcement of laws”.

³⁴ Although for contradictory evidence, see Klein (2009).

Sexual violence, police accountability, and security and justice development

Accountability is the cornerstone of the practice area called security and justice development, of which CRSV justice and accountability is a subset.³⁵ There are four dimensions to accountability – which are not mutually exclusive (World Bank, 2004 and 2017):

- vertical - an institution's specific internal mechanisms, processes, and procedures
- horizontal – the overall governance system of checks and balances
- external – independent organisations and groups that lie outside the official public governance system
- from below – local and grassroots mechanisms by which communities and neighbourhoods directly interact with their local state public service providers, such as the police.

CRSV accountability programming has struggled to generate results where justice and accountability is understood in narrow terms as criminal justice/prosecution.³⁶ The justice and accountability picture is, however, very different once a survivor-first approach is adopted. Of the four types of accountability, it is precisely the community's engagement – i.e. accountability from below - that research has shown is the most programmatically effective.

Accountability from below is often labelled social accountability. A USAID study on police accountability found that the most effective accountability initiatives are bottom-up initiatives built on localised community support, in which police-civilian partnerships are the pivot upon which accountability improvements are based (Scheye, 2018). Social accountability leverages the interests, wishes, and agency of the community of citizens. It relies on community mobilisation groups, women's networks, and the effective contributions of survivors in partnership with selected state actors. The emphasis on healthcare, social services and the mobilisation of support networks means that this is no longer a criminal justice/prosecution first approach. Instead, the understanding of justice and accountability has been broadened to include tackling gender inequality and women's disempowerment.

3.3 Survivor care and wellbeing

As with both CRSV prevention and justice and accountability programming, there is a dearth of empirical evidence to prescribe 'what works' to restore and promote the personal and social wellbeing of survivors. A consensus has emerged on what may be considered as 'better practice' – even if this is based more on plausible inferences and ethical considerations than on firm empirical data. As Schopper (2014: 591) notes, "the gap between widely promoted practices, such as psychological first aid, and knowledge on effectiveness of interventions is worrisomely wide".

The principles of 'better practice' begin with the term survivor wellbeing. WHO defines support programming focused on survivor wellbeing as rights-based where "the interest of the survivor and respect for her or his decisions is of primary importance; all actions must always be guided by a survivor-centred approach and the principles of confidentiality, safety and security, respect and non-discrimination" (WHO, 2012: 2).

From this perspective, the health of the survivor is the first priority, and initial survivor care is medical and typically takes place in clinics and hospitals (Kaboru et al., 2014). Thereafter, survivor care is best directed by survivors themselves as regards their psychological and social healing (Utas, 2009). How those are defined depend upon the survivors themselves, as they reverse the destruction and isolation into which CRSV may have

³⁵ Justice and security development is sometimes called security sector reform, security system development, or law and justice.

³⁶ See e.g. ICAI (2015) and ADE (2011), which provide portfolio analyses of, respectively, DFID's and the European Commission's programming in this area.

cast them and reassert and regain control over their bodies and lives. It is about not only recreating bonds and communities that may have been lost, but building those that may not have previously existed (Mukamana and Brysiewicz, 2008).

Scarcity of empirical evidence

As with CRSV prevention and justice and accountability programming, a number of systemic portfolio reviews have been conducted and all come to the same conclusion: the lack of empirical data upon which to ground survivor care is profound. In short, “little is known about effective interventions for survivors of sexual violence in areas of armed conflict in low- and medium-income countries” (Stavrou, 2013: 107).³⁷ Stavrou found only five ‘outcome’ studies. Another systematic evaluation began by sifting through 5,684 citations, but ended up with only seven studies passing their empirical screening. The authors concluded that it is impossible to determine the “effectiveness of particular approaches... on the basis of current evidence” (Tol et al., 2013: 16). Systemic reviews by de Jong et al. (2014) and Maxi et al. (2017) came to similar conclusions.³⁸

More than medical and psychological

Caring for survivors begins with medical support. A significant percentage of CRSV occurs in remote rural areas, where little to no medical care exists. Consequently, medical assistance often needs to be mobile, which, in turn, requires the acquiescence, if not active approval, of local communities and their leadership (Kohli et al., 2012). Right from the very beginning, therefore, most survivor care is a collective endeavour and the individual survivor cannot be supported without community involvement.

As survivors may be shunned and ostracized, active community involvement is essential. For instance, in communities where the stigma of sexual violence stops survivors from seeking medical attention, medical care is best offered to all women and girls so as not to spotlight the plight of survivors (Kohli et al, 2012). Community participation is also crucial beyond initial medical support, as most medical care requires follow-up treatment, and without community approval adherence to medical protocols will be low and dropout rates high (Schopper, 2014).

Medical care is not necessarily limited to Western medicine, but may also include various forms of local restorative support that blur the lines between medical, psycho-social and spiritual care. In many cultures, cleansing ceremonies and traditions are important. It is not a question of choice between Western medical care and local healing treatments, for, without the latter, many survivors may believe that they lack a sense of self and identity (Ager et al, 2010: 86). For some survivors, regaining control over their selves, which requires restoring and reaffirming their bonds to their communities, may mean that they feel the need to undergo healing and cleansing ceremonies (Stark, 2006; Utas, 2009). It is important to be aware that there may be medical, cultural and normative tensions and contradictions between what donor support asserts is proper and what survivors believe is necessary for their wellbeing.

Additional to medical care is psychological support in individual and group sessions. Though the data is scarce, it appears that both types of therapy are best done when combined. For instance, in conjunction with group sessions, individual cognitive therapy seems effective for abused and traumatized boys in reducing their “posttraumatic stress symptoms, overall psychosocial distress, depression or anxiety-like symptoms [and] conduct problems.” The group sessions appear to reduce stigma and “promote... understanding and normalisation of symptoms [and] group work fostered friendships and a sense of safety and emotional support

³⁷ See also Bass et al. (2013) and Spangaro et al. (2013).

³⁸ See also Holmes and Bhuvanendra (2014), who decry the many guidelines and toolkits produced without valid data.

that may last long after the end of the intervention” (McMullen et al., 2013: 1231). In Bass (2013), a “cognitive processing therapy [for female survivors in the DRC] was effective in reducing PTSD symptoms and combined depression and anxiety symptoms and improving functioning”, while O’Callaghan (2013) used cognitive behavioural therapy with girl CRSV survivors, with similar results.

The multi-layered structure of care: next steps

A multi-layered approach to survivor care is not limited to medical and psychological care and the community’s endorsement of it. The initiatives that were found to have been effective were “embedded into an existing psychosocial programme that provided food, shelter and vocational training” (McMullen et al., 2013: 1239). Depending on survivor wishes, the response may include micro-credit schemes to aid survivors, other forms of economic empowerment, dialogue groups, education and community outreach. Given that these initiatives

“involved a wide range of components, including traditional cleansings, other community events, health screenings, trainings and loans, it is not possible to say which of these elements proved most effective in supporting attainment of reintegration. Indeed, it may have been processes incidental to such specific activities (e.g. engaging in discussions with girls, raising the profile of their needs within communities etc.) that were most significant in creating change.” (Ager et al., 2010: 89)

Despite the lack of reliable empirical evidence, it is likely that better practice is based upon this multi-layered approach (Stavrou, 2013). What seems to drive the integration of the survivor back into her/his community is the enhancement of her/his ability to exercise choice and agency, which means, first and foremost, centring programming based upon the wishes and interests of the survivors themselves (Maxi et al., 2017). This means much more than calls for increased ‘survivor voice’. As a review of the International Rescue Committee’s VAWG efforts concludes:

“as a means to better meet the needs of VAWG survivors and invest in more sustainable strategy for service provision, the IRC transitioned from partnering with local NGOs that focused more heavily on services for survivors of sexual violence, to partnering with grassroots women’s CBOs that are more in touch with the needs of women and girls in their own communities. Within one year of this transition, the percentage of cases of intimate partner violence reported to IRC partners doubled, the percentage of cases of VAWG perpetrated by a family member increased by 50 per cent, and the percentage of non-sexual VAWG cases increased by 75 per cent. Since the prevailing context has not altered dramatically, the assumption can be made that it is not the kinds of violence that have changed, but rather how easily survivors of those kinds can access the services they need.” (Guimond and Robinette, 2014: 323-324)

4. The UN and sexual exploitation and abuse

The UN defines sexual exploitation and abuse (SEA) as:

“any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term ‘sexual abuse’ means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. [...]

Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally.

Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited.” (UN, 2003: 1-2)

It is important to recognise that not all SEA is criminal, as the definition includes transactional sex and sexual exploitation, which in certain countries is either legal or non-criminal. This is an important distinction between SEA and CRSV.³⁹ Nevertheless, the UN recognises SEA as a type of CRSV perpetrated by UN military, police, and civilian staff and personnel during peacekeeping operations. Consequently, much, but not all, of the foregoing discussion of CRSV applies to SEA. Most importantly, it applies to the second foundational principle of CRSV: the adoption of a survivor-first approach.

The primary distinction of SEA from CRSV is the status of the alleged transgressor and the organisation to which they belong or are serving when they engaged in the criminal activity, exploitation or abuse. As a result, even though almost all the ‘what works’ lessons in justice and accountability remain valid for SEA, the political and legal status of the UN necessitates a different approach. While the causes and motivations of those who commit SEA may arise from a set of individual and group dynamics,⁴⁰ UN personnel do not seek to achieve strategic objectives when perpetrating SEA. On the other hand, ‘what works’ to prevent and/or reduce CRSV, more generally, is applicable to SEA. In addition, the principles of good practice in survivor care and wellbeing programming are the same for SEA as it is for CRSV survivors.⁴¹

This section is divided into four parts:

- Institutional history of SEA
- Prevalence and incidence of SEA
- Justice and accountability in SEA
- SEA survivor care and the UN.

4.1 Institutional history of SEA

Sexual violence, exploitation and abuse by UN peacekeeping personnel, whether in uniform or civilians, has a long history, and one which has tended to be “overwhelmingly focused on uniformed personnel as its perpetrators” (Whalan, 2017: 18). In 1998, the UN established the “Ten Rules: Code of Personal Conduct for Blue Helmets,” which set out the rules and regulations for how peacekeeping troops should behave. The UN introduced its zero-tolerance policy in 2003 (UN, 2003), partially in response to reports of sexual violence against refugees in West Africa, the subsequent accounts issued by Save the Children and the UN High Commissioner for Refugees (UNHCR), and an investigation by the Office of Internal Oversight Services (OIOS, 2002).

³⁹ For a glossary of the terms the UN uses to describe SEA acts, including rape, sexual assault and transactional sex, see UN (2017a).

⁴⁰ “Incidences of SEA are distinguishable on the basis of the extent to which they were perpetrated opportunistically, whether there was negotiation or a transaction involved, whether they were connected to criminal networks, and whether they were sadistic and planned.” (Westendorf and Searle, 2017: 374). The UN attributes SEA to “weakly enforced standards with respect to civilian hiring; little to no system-wide screening of candidates for prior history of related misconduct; ignorance of the values and rules of the Organization; a lack of uniform and systematic training across all categories of personnel; weak civilian or uniformed leadership that fails to reinforce conduct and discipline; a sense of impunity among those who perpetrate these acts; and insufficient attention and a lack of sustained efforts on the part of the senior United Nations leadership and Member States, until provoked by crisis” (UN, 2017b: 6).

⁴¹ For instance, the UN Trust Fund in Support of Victims of Sexual Exploitation and Abuse takes a comprehensive approach to survivor care, involving “legal, medical, safety, shelter and livelihood support” and focusing on strengthening the resilience and empowerment of survivors in their communities (UN News, 2019).

In 2005, the UN published “A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations”, which led to organisational and structural changes (UN, 2005). In 2007, the Conduct and Discipline Unit (CDU) was established at headquarters within the Department of Field Support (DFS). Conduct and Discipline Teams (CDT), reporting to the CDU, were also established in each peacekeeping operation. The purpose of the new structures was to provide guidance and to systematise and manage the conduct and discipline of the peacekeeping staff, especially with regard to SEA.⁴²

After 2008, the UN modified its approach to SEA and concentrated more acutely on survivors of violence, exploitation and abuse, and their recovery from the trauma of SEA. Part of the reason had to do with the significant problems survivors – and witnesses – had in reporting SEA, including, but not limited to, the awareness of how to access, and trust in, the UN’s system. It was

“notoriously difficult to ‘prove’ to UN investigative standards, for a range of reasons, including the refusal of many victims to give evidence against soldiers because of fear of retribution; the difficulty of acquiring witness evidence because of the movement of people in crises; confusion over who is responsible for investigating; the departure or repatriation of alleged perpetrators, and the UN’s lack of authority over Troop-Contributing Countries [TCCs] regarding investigative processes...” (Westendorf and Searle, 2017: 379)

Although there are multiple avenues by which the UN can receive SEA allegations, CDTs are meant to receive most of them. Once received, accusations are forwarded to the Head of Mission. CDTs only analyse the allegations to recommend whether or not an investigation is necessary (Stern, 2015).⁴³ CDTs do not conduct investigations. These are conducted by the UN Office of Internal Oversight Services (OIOS), with the exception of acts allegedly committed by UN soldiers. For UN troops, investigations of alleged SEA are the prerogative of the troop-contributing country, not the UN. OIOS has the authority to investigate only if the troop-contributing country does not initiate its own investigation in a timely manner.

These successive rounds of reforms, while significant and meaningful, have not appreciably remedied the situation. While the UN may have become better, for instance, at outreach to elicit reports of alleged SEA, the 2015 independent review of SEA concluded that the:

“very same problems identified by the previous reports remain unaddressed and unabated: a culture of impunity in which some leaders turn a blind-eye to sexual crimes by troops; a bureaucratic culture in which many are not willing to take responsibility for addressing the violations or to show leadership in investigating and prosecuting the criminal conduct; a disproportionate concern with protecting the image of the UN and its agencies rather than helping the victims; and routine and systematic delay at every stage of decision-making, even as the failure to act means that crimes may be reoccurring and that the chances of bringing the perpetrators to justice decrease day by day. The end result is inaction, which only feeds the perception that there is little risk or consequence for those who choose to exploit the most vulnerable members of society.” (Deschamps, 2015: 4-5)

⁴² The specific responsibilities of the CDU and CDTs with regard to SEA are to manage and track allegations of misconduct, formulate policies, conduct training and institute outreach activities.

⁴³ The CDU has a Misconduct Tracking System (MTS), which records all allegations of misconduct and actions taken in handling allegations of SEA.

4.2 Prevalence and incidence of SEA

As discussed in Section 2, measuring the prevalence and incidence of CRSV and SEA is problematic. For SEA, the challenge is not only due to underreporting, or the almost insurmountable hurdles faced by survivors during and in the immediate aftermath of civil strife in publicly bringing the SEA perpetrated on them to light (assuming that they know how to access and report SEA in the UN system). Nor is it merely an issue that SEA statistics depend solely upon the ‘reports and communications’ the UN itself has received from survivors and witnesses, given the scarcity of independent analyses of SEA prevalence and incidence rates (Nordås and Rustad, 2013). The challenge arises because, as the independent studies already discussed have indicated, the margin of error in SEA data is, simply put, enormous.⁴⁴

The problem with the UN’s data is also institutional. The UN has been reporting SEA statistics since 2004, but prior to 2015-16 it has been virtually impossible to interpret or use the UN’s data to derive valid conclusions. On an almost annual basis, up until 2016, the UN changed the methodologies, categories, definitions, and classifications by and with which it reported SEA. The recording of SEA reports may be accurate, however, the instability in their classification, collection and reporting makes it difficult to know what any single number means, let alone compare the statistics across the years (Grady, 2016).

Even if, prior to 2016, the statistics had been comparable from year to year, “the relative lack of data on sexual exploitation and abuse... [means that scholars cannot] disaggregate types of sexual exploitation and abuse by type for the empirical analyses” (Nordås and Rustad, 2013: 524). Consequently, it is problematic to ground analysis and draw inferences based on the UN’s empirical data, particularly before 2015-2016.

There are, however, a couple of conclusions that could be drawn from the UN’s SEA statistics. First, although the absolute number of allegations lodged against military personnel far exceeds those against civilians, this is because there are many more soldiers than civilian staff in peacekeeping missions. In relative terms, the number of accusations against UN military, police and civilian⁴⁵ staff is virtually equal. This conclusion coincides with an OIOS finding, using pre-2016 statistics, where the UN acknowledged that on a per personnel deployed basis, allegations against UN civilians were actually more prevalent than among the military (OIOS, 2015: 9). Consequently, programming needs to focus on the perpetration of SEA committed by UN civilian staff, as much as it does on military personnel.

The second conclusion pertains to the level of sexual violence committed against children (minors are defined in this context as persons under the age of 18 (UN, 2003)). According to OIOS (2015), 36% of all SEA allegations made between 2008 and 2013 involved minors. It is certain that there is a significant underreporting of sexual violence against people under 18, not least because when minors are paid to have sex with UN personnel this is categorised as ‘transactional sex’ rather than sexual assault and rape. Westendorf and Searle (2017: 372) note that “while both adults and children engage in transactional sex... UN policies do not distinguish between the two, the implications of transactional sex with children and with adults differ significantly, and the majority of transactional sex reported in the literature relates to children”.⁴⁶

⁴⁴ Depending upon the time period under examination, the UN has argued that the increase in reported SEA allegations is a sign that the system is deemed increasingly trustworthy by survivors and witnesses, while the fall in reported allegations suggests the success of UN policies and actions. However, a “number of sources, including the UN’s own Office of Internal Oversight Services, have suggested an equally plausible explanation for this decrease: rather than eradicating sexual exploitation and abuse, the ‘zero-tolerance’ policy may have driven it underground” (Grady, 2016: 942-3).

⁴⁵ UN civilians includes civilian staff, United Nations volunteers, and UN contractors. For a table of allegations compiled by the UN since 2015, see [link](#).

⁴⁶ In Liberia, for example, “about 28 percent [of the sex workers] report having transactional sex before they were sixteen” though it is unknown what number or percentage of those had transactional sex as children with UN staff (Beber et al., 2017: 13). Examining the data, Westendorf and Searle (2017: 369) conclude that allegations against UN civilians tend to be about transactional sex, while military personnel are more often accused of rape.

4.3 Justice and accountability in SEA

There is consensus in the literature that UN staff, irrespective of whether they are civilian, police or military, enjoy impunity if they perpetrate sexual violence and SEA. Ferstman (2013: 1) notes that “[d]espite eight years of annual resolutions that underscore the need to address the problems, there is no evidence of greater accountability” (see also Westendorf and Searle, 2017). Freedman (2018: 965), for instance, concludes that “the current [UN] legal frameworks have created a culture of impunity owing to the difficulties or unwillingness to prosecute personnel who do commit crimes during peacekeeping operations”. Given the results of the Liberian study of SEA, there is “no evidence that the [SEA] norms [promulgated by the UN are “being adopted by ordinary personnel and ample evidence that... [they are] being ignored” (Beber et al., 2016: 23). This conclusion is seconded by the UN itself: OIOS (2015: 4) notes that the organisation is no closer to addressing the issue satisfactorily than it was years before.

The reasons for this impunity are numerous. At the most fundamental level, the UN is only capable of administratively disciplining perpetrators of SEA through fines, dismissal and repatriation. It is improbable that these sanctions qualify in the eyes of survivors as either justice or accountability for the harms inflicted upon them. Other reasons for impunity include, for example, the absence of a UN unit capable, appropriately staffed, or authorised to investigate SEA criminal activities (Freedman, 2018: 972). The investigations that OIOS does undertake, as will be discussed below, are problematic. Essentially, the impunity of UN civilian, police, and military personnel is not prevented by the force of law, and there is little, given the limitations of authority invested in the organisation, that the UN can do on its own to ameliorate the situation.⁴⁷

4.4 The UN’s legal authority and the law: civilians and police personnel

Given the limits to the UN’s authority, there are a number of obstacles precluding it from obtaining justice and accountability for survivors of SEA. For UN civilians and police, they include how the UN addresses:

- staff immunity
- investigations and evidence
- criminal codes and court trials.

Immunity

For purposes of analysing UN authorities’ actions to address SEA, UN police are considered ‘experts,’ while civilian personnel are classified as UN ‘officials.’ Both categories possess functional immunity from the legal systems of the country in which they are deployed, for actions carried out and in the pursuit of their designated functions in the UN peace operation in which they are serving (Freedman, 2018).⁴⁸ Functional immunity can be waived by the UN Secretary-General if allegations are lodged against UN personnel for criminal activity that lies outside their official duties. The purpose of the waiver is to pursue justice and accountability “where the witnesses and evidence are to be found; [in addition] holding the trial in the host state would also have the most concrete impact on the affected victims” (Ferstman, 2013: 7).

⁴⁷ Many proposals have been put forward for how the UN should respond to SEA. A potentially effective approach would be for the UN to stop accepting peacekeeping troops from countries with poor SEA records. Other remedies suggested include: that the UN should waive its immunity; that troop-contributing countries who do not act expeditiously in investigating and prosecuting SEA could have their sovereign jurisdiction lifted; that SEA cases could be referred to the International Criminal Court; and that hybrid (UN and national) courts could be established to function alongside peacekeeping operations in conflict zones.

⁴⁸ The highest levels of UN staff, such as Secretary-General, heads of offices and agencies and the heads of peacekeeping operations, also have personal immunity. This adheres to their person above and beyond their official functions and, therefore, offers them a greater degree of protection from the laws of the country in which they are serving as UN officials. It may also be the case that some UN police, as experts on mission, also possess personal immunity, which means that even if the alleged criminal conduct “falls outside of their official functions, nothing can be done while... [he/she] remains on mission,” (Freedman, 2018, p.968).

However, the UN does not customarily waive immunity in conflict zones and post-conflict contexts, which is where SEA in international peacekeeping occurs, because the legal systems of these countries invariably do not meet the standards of due process, fair trials, and the rule of law (Ferstman, 2013). Consequently, in the countries in which SEA occurs, the suspected perpetrator has almost complete immunity.

Adherence to the rule of law is crucial, but the UN does not do so with regard to the waiver of immunity. The legal responsibility of the UN is solely to determine whether the alleged SEA falls within the purview of the offender's official duties and responsibilities. If it does not, then immunity should be waived. However, under no conditions does sexual violence fall within the functions of a UN civilian or police staff person:

"It is clear then that some crimes such as driving while drunk or unlawful killing may in some contexts be covered by functional immunity, whereas other crimes such as rape will never fall within that sphere. Where there is a question as to whether functional immunity applies, the UN must make such a determination based on internal investigations not into whether the crime was committed but, rather, into the context within which it occurred. No such determination needs to be made in relation to those crimes or contexts that do not fall within an individual's official functions." (Freedman, 2018: 967)

Nevertheless, the UN, typically, investigates the legal validity of the accusation "and whether there is sufficient evidence to cooperate with local authorities" (Freedman, 2018: 967) – although this is beyond its legal mandate to establish whether or not to waive immunity.

Investigation, evidence, and criminal codes

Given that immunity is unlikely to be waived, an SEA investigation for possible criminal prosecution requires collecting evidence in a conflict zone and ensuring that the evidence – what it is and how it is assembled, processed, and transmitted – coincides with and is admissible according to the codes of criminal procedure in the country in which the accused UN staff person is a citizen. This implies that in a conflict zone, investigations must be capable of assembling a police file that a prosecutor from another country, adhering to the laws and rules of that country, will accept. The practical burden imposed upon the investigator is virtually insurmountable.

The alleged SEA must be considered a crime in the perpetrator's home country. If not, there is no possibility of prosecuting the allegation. As criminal codes vary from country to country with regard, for example, to the legal age of consent or whether transactional sex is a criminal act, there are cases of SEA that are not susceptible to prosecution. Furthermore, for a prosecution in the accused's home country to proceed, the country must permit court processes for extra-territorial crimes (Ferstman, 2013: 9). Lastly, there are countries whose laws require that the alleged criminal activity must be criminal in the country in which the accused is a citizen *and* the one in which the allegation occurred. To overcome all these legal obstacles is challenging at the very least. The result is that UN civilian and police perpetrators of SEA have almost complete immunity. Most of the reasons for that immunity lie beyond the immediate authority of the UN to remedy.

4.5 The UN's legal authority over military troops

The UN's legal authority over troops contributed to its peace operations is even more limited than that which it can exercise over its civilians and police. UN troops are under the exclusive jurisdiction of their national government, who retain full responsibility for their actions and behaviour (Stern, 2015). Military personnel of national contingents are under the treaty provisions subject to Status of Forces Agreement (SOFA), Status of Mission Agreement (SOMA), and other UN MOUs. Troop-contributing countries "in providing forces... agree to 'ensure that all members of the... national contingent are required to comply with the United Nations standards

of conduct,” but those troops remain under the exclusive legal jurisdiction of their national governments and not the state in which they are serving for the UN (Grady, 2016: 935).

The troop-contributing country is obliged to investigate and prosecute their military personnel accused of SEA according to their code of military procedure and conduct. The UN’s only role is, administratively, to investigate the alleged incident if and when the troop-contributing country has failed “to undertake its own investigations within 10 days of an allegation being handed over to its authorities” (Freedman, 2018: 969). In reality, if the ten-day limit is violated, the troop-contributing country and the UN frequently ignore the violation (Freedman, 2018: 973). Even when the UN initiates an administrative investigation, the troop-contributing country retains full legal jurisdiction for prosecution. The only exception is when the troop-contributing country court-martials its soldier(s) in the country where the alleged crime occurred and then transfers the offender to the host government’s legal authorities.

4.6 SEA survivor care and the UN

Given the obstacles and challenges faced by the UN in pursuing justice and accountability for survivors of SEA, the organisation has increasingly turned its focus on to the importance of survivor care and wellbeing (Whalan, 2017). The 2005 “UN Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel” (Zeid, 2005) is the cornerstone of this approach. It advocates for survivors of SEA to be given support to enable them to recover and regain their wellbeing after their trauma. Effectively, this approach depends upon the existing support systems and social networks in conflict zones, as well as those already funded by the international community, given that the strategy does not possess an independent source of funding (REDRESS, 2017: 9). The result, as of 2015, is that

“only 26 out of 217 SEA victims (12%) identified by its victim assistance architecture have been referred for assistance and of those referred, little is known what assistance, in reality, was provided to them”. (OIOS, 2015: 23)

This undermines the second principle of CRSV, survivor wellbeing, one that the UN itself claims to uphold. This is further compounded by the UN definition of SEA survivors: its differentiation between ‘complainants’ and ‘victims’ precludes essential support to many survivors. The former category is to receive immediate assistance, while the latter is also to “receive additional assistance and support, in accordance with their individual needs directly arising from sexual exploitation and abuse. This assistance and support will comprise medical care, legal services, support to deal with the psychological and social effects of the experience and immediate material care, as necessary” (REDRESS, 2017: 34).

The first problem is that the UN system of investigating SEA and, thereby, distinguishing between ‘victims’ and ‘complainants,’ is long and cumbersome. UN investigations can take years for ‘complainants’ to become ‘victims’, which undermines the principle of survivor-first care. Second, UN investigations, while only administrative, adopt the guise of a criminal legal process in circumstances where the UN does not have the technical capability of undertaking extensive and thorough criminal or legal investigations. Frequently, the finding is that the allegation cannot be substantiated - which does not mean that the SEA did not occur. It only implies that the UN investigation could not find sufficient evidence of its occurrence in a conflict zone where the alleged perpetrator may no longer work and live; where the complaint may have been lodged days or months after the event (meaning that evidence of its occurrence is missing); and where the survivor is reluctant to testify in front of UN staff. Third, some studies have argued that the distinction between ‘victim’ and ‘complainant’ violates human rights law, where “a victim’s status and entitlements are understood to exist independent of the results of a criminal investigation or prosecution”, particularly given the virtual impunity

accorded to the SEA perpetrator (REDRESS, 2017: 33).⁴⁹ In short, as the UN Office of Internal Oversight Services has observed, “[t]he Organization’s lack of success in assisting victims of sexual exploitation and abuse is of serious concern” (OIOS, 2015: para. 72).

5. Conclusion

This literature review of ‘what works’ in CRSV programming has presented evidence which suggests that existing CRSV initiatives have, generally, not produced significant results and outcomes, as measured by reductions in sexual violence, increased survivor wellbeing, or more effective delivery of either justice or accountability. Furthermore, the evidence indicates that, despite increased international attention and programming, ‘a climate of impunity and immunity’ persists for both CRSV and SEA, the one notable exception being the establishment of mobile courts in the eastern DRC.

In order to generate concrete results, the literature points towards CRSV programming being refocused. The most promising indications, based upon a survivor-first approach, suggest that future initiatives concentrate on:

1. Immediate and intermediate-term survivor care
2. Increasing the resilience of women and girls
3. Innovative programming on prevention and justice and accountability, from which new empirical evidence can be generated.

In addition, the literature review indicates that effective programming places the survivor at the centre, so that they are more than a programme beneficiary. With programme design informed by survivors, they can begin to reassert control over their bodies and lives and progressively ensure their own long-term wellbeing. This approach is more than merely supporting the provision of a defined set of services. Instead, its objective is to strengthen the agency of survivors through supporting what they want. It seems likely that programming will need to be multi-layered, with the aim to increase the resilience of survivors and their communities. The evidence presented by this literature review suggests that this can be achieved by increasing survivor control, as well as the diversification of what they perceive to be the assets and resources that are vital to their wellbeing.

⁴⁹ That the UN rarely provides information to SEA survivors about their cases also undermines survivors’ right to participate in the pursuit of legal redress and seek civil compensation.

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