

Liechtenstein Mission Lecture Series on Women, Peace and Security

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New York, 21 October 2013

Excellencies, Ladies and Gentlemen

I would like to thank the Permanent Mission of the Principality of Lichtenstein for inviting me to its October lecture series on Women, Peace and Security. I will speak about accountability for crimes against women and girls at times of conflict and instability.

There is now overwhelming evidence that conflicts exacerbates pre-existing gender discrimination and put women and girls at heightened risk of sexual, physical, and psychological violence. One appalling example of this evidence is the report last month to the Human Rights Council by the International Commission of Inquiry on Syria, which highlights the threat and use of sexual violence in this terrible conflict, and the vulnerability of women and girls in refugee camps to sexual exploitation, forced marriage and trafficking.

It is essential to promote accountability for war crimes suffered by women and girls. Without accountability, women's human rights will be denied. Violence against women will become normalized and it will spread, denying enjoyment of any women's rights, smothering all hope of sustainable peace and development.

To ensure accountability and deliver justice, remedies and reparations for the harm that women and girls have suffered, we need transitional justice, a process

expressing society's desire to rebuild social trust, repair a fractured justice system, and build a democratic system of governance. Transitional justice encompasses measures to impose adequate sanctions on perpetrators, ensure remedies for survivors, address impunity for past crimes, and avoid the repetition of violations. The processes, norms, and structures of transitional justice must be built on the fundamental principles of equality and non-discrimination and they must fully take into account women's and girls' stories, feelings and experience.

Let me go through some of these elements, starting with criminal prosecution.

1. Prosecution:

Both treaty and customary international law impose a duty to prosecute serious violations of international humanitarian or human rights law. Yet, for far too many women who have been victims of serious crimes, prospects of having the perpetrators brought to justice are very remote. Estimates of the number of women raped during the war in Bosnia-Herzegovina range from 20,000 to 50,000. However, only a few dozen perpetrators have been convicted by the local courts and the International Criminal Tribunal for the former Yugoslavia. In countries like Colombia, Côte d'Ivoire, the Democratic Republic of Congo, Kosovo¹, Nepal, and Liberia, to mention a few, the number of convictions for cases of sexual and gender-based crimes, which mainly affect women, remains very low.

All over the world, women continue to face substantive and procedural obstacles in their pursuit of justice. In countries emerging from conflict and instability, these obstacles to judicial accountability can be made worse by a highly

¹ As per SC Resolution 1244

politicized and often polarized environment and weakened judicial institutions that lack the necessary capacity and technical ability to investigate and prosecute complex crimes, which often involve multiple victims and perpetrators.

However, efforts to strengthen the capacities of the justice system have shown positive results in some countries. For example, in the Democratic Republic of Congo, the Joint Human Rights Office of MONUSCO supports legal clinics that represent victims of sexual violence. The JHRO also trains police, prosecutors, and magistrates to better handle sexual violence investigations and trials. As a result of these and other efforts, such as the DRC's innovative mobile gender courts, more convictions have been registered.

On the other hand, the prosecution of high-ranking officers, with a few exceptions, has remained a challenge. The task of prosecution can be difficult and complex, and we need leadership as well as resources. We must ensure that the judicial institutions have the required capacity, resources, and authority. In DRC, as well as other countries, insecurity, absence of appropriate financial resources, piecemeal interventions, and a lack of political will to prioritize comprehensive structural reforms, continue to represent major obstacles to judicial accountability.

It is clear that justice should be achieved through national processes first. However, when States are unable or unwilling to ensure accountability at the national level, international justice should come into play. In recent years, international tribunals have played an immensely useful role in advancing international recognition for gender-based crimes.

Both the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda have recognized sexual violence, including rape, as acts of torture and crimes against humanity. Sexual and gender-based crimes were reportedly committed in all eight situations under consideration by the ICC (Central African Republic, Côte d'Ivoire, the Darfur region of Sudan, Democratic Republic of Congo, Kenya, Libya, Mali and Uganda) and over half of the individuals indicted are charged with sexual and gender-based crimes. This indicates a very positive trend towards a greater recognition of women's experience of conflict and repression.

Ladies and gentlemen,

2. Reparations:

Let me now turn to the issue of reparations. Under international law, reparations encompass a number of measures including restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition.

Ensuring that reparations are just and adequate requires a full understanding of the gender dimension of the problem and consequences of the harm suffered. We need also to invest more effort in ensuring that a proper understanding of gender issues shapes the structure and system of reparations operations, so as not to exclude, marginalize, or penalize women. Regardless of whether reparations are ordered by courts or are part of an administrative programme, a number of general principles and programmatic guidelines for reparations should be kept in mind:

- First, it is crucial to have women's genuine and informed participation in designing and delivering reparations. The views of the victims themselves are crucial for determining what forms of reparation are best-suited to their situations. Ensuring meaningful participation requires an investment of time and resources to reach out to victims and overcome barriers like the risk of exposure or retaliation and related stigma, poverty, and the physical and mental health consequences of the violence suffered. My Office has undertaken consultations with survivors and produced recommendations to inform reparation efforts in DRC, Uganda and Kosovo².
- Second, reparations should be guided by the imperative to ensure an adequate and gender-sensitive assessment of the harm suffered. For instance, in DRC, women noted that apart from the physical and psychological consequences of sexual violence, they had also been stigmatized and ostracized from their families and communities, had lost access to their livelihoods, had become the sole breadwinner, and faced enormous difficulties in providing for themselves and their children. In Kosovo³ victims asked for medical and psychological care, financial compensation, additional monetary support to assist with the education of their children and an official declaration aimed at restoring their dignity and reputation.
- Thirdly, reparations should be guided by the desire to transform the structural conditions within society that allowed the violence to happen in the first place. Priority should therefore be given to reparations that can help enhance women's autonomy and offer opportunities traditionally denied to

² As per SC Resolution 1244.

³ As per SC Resolution 1244

them, such as meaningful employment, education, skills training, and title deed and access to land. “Guarantees of non-repetition” offer great potential for transforming gender relations.

- Fourthly, in deciding the forms of reparations, one must take into account existing obstacles and challenges that women may face in their ability to own land or receive and manage money.
- Finally, reparation processes should be inclusive, involving conscious effort to avoid directly or indirectly marginalizing women. The process should allow women and girls to come forward when they are ready. Eligibility standards should ensure inclusiveness. For example, documentation required for restitution should take into account greater difficulties faced by women in proving title to property.

For their part, States must fully acknowledge their responsibility for human rights violations and use their financial and institutional capacity in a diligent way to repair the harm suffered by victims. Where political will exists but capacity is lacking or limited, external actors also have a role to play, including through assistance for the design and implementation of reparations programmes.

In Eastern DRC, my Office implemented five pilot initiatives. Through grants provided to local organizations, victims have been provided with, among other things, psychosocial assistance, medical insurance, payment of school fees, training and coaching for the creation and management of small businesses and economic kits. These pilot projects are intended to inform and inspire the establishment of comprehensive reparation programmes for all victims. Jointly

with UN Women, we are producing a guidance note on reparations for victims of conflict-related sexual violence, which should promote further progress in this area..

3. The right to truth

Ladies and Gentlemen,

There is a growing recognition that efforts to uncover the truth about past human rights violations must be fully gender-sensitive. In more and more countries, the mandates, composition, and modus operandi of truth and reconciliation commissions and similar bodies are increasingly designed and operationalized so as to ensure that women and girls' experiences are taken into account.

Reports from the Truth and Reconciliation Commissions in Sierra Leone, Timor Leste, Peru, and Guatemala have explicitly acknowledged the serious harm women and girls suffered from conflict-related sexual violence. The recently published report of the Kenya commission also includes a chapter on sexual violence, as well as gender-specific recommendations. Four United Nations-supported truth commissions are on-going (Kenya, Côte d'Ivoire, Brazil, and Mali). Two of them (Kenya and Brazil) have internal gender mechanisms. The percentage of women's representation amongst commissioners has also grown in some cases, although overall we are far from achieving equal gender representation on the Commissions.

As with reparations, Truth and Reconciliation Commissions must make specific efforts to encourage and facilitate women's full and meaningful participation. Such measures must take into account all procedural factors that may hinder or discourage participation, such as lack of measures to protect confidentiality, poverty, illiteracy, mobility limitations, and relevant cultural and societal norms. For instance, the South African Truth and Reconciliation Commission found that women downplayed or remained silent about their own suffering, particularly sexual violence. It then decided to take special steps to encourage women to testify, including holding three special women's hearings. In its final report, the Commission wrote, "These hearings brought to light the particularly gendered ways in which women experienced human rights violations."

Commissions of Inquiry are also crucial bodies to investigate serious violations of women's rights. Different arrangements have been put in place to provide different Commissions of Inquiry expertise on sexual and gender-based violence (SGBV) and gender integration. Rapid-deployment fact-finding missions are investigating violations of international human rights law and international humanitarian law. I am pleased that my Office, which supports International Commissions of Inquiry, has been able to provide experts on sexual and gender-based violence in situations such as in Guinea-Conakry, Côte d'Ivoire, Libya, and Syria, partly also thanks to our promising collaboration with UN Women.

There is, however, a need to strengthen the capacities of all these bodies to address the impact of conflict on gender issues and to measure fully the interdependence and interrelatedness of all human rights violations that occur during conflict. My Office is undertaking an internal lessons-learned exercise on the provision of SGBV expertise to Commissions of Inquiry at the end of October.

We will undertake a broader assessment of gender integration into the work of Commissions of Inquiry in 2014. These exercises will inform our future efforts in this direction.

4. Guarantees of non-reoccurrence and institutional reform

Let me finally turn to guarantees of non-reoccurrence and institutional reform.

In the aftermath of conflict, as states and international actors are reforming the security sector, they should take the opportunity to strengthen the transparency, accountability, and professionalism of the security apparatus and to make it more gender-aware. Doing so enables women to have greater access to justice and strengthens accountability for gender-based crimes. Security-sector reform should include efforts to remove gender biases and strengthen the capacity of security sector agents to understand and respond to specific security threats for women. Internal and external oversight may be needed to increase institutional accountability on gender. Security sector reform can also provide an opportunity to ensure that there are enough women in the security forces, which, quite apart from creating jobs, encourages higher rates of reporting of incidents of gender-based violence and improves gender-sensitive treatment of female witnesses, victims, and suspects.

The disarmament, demobilization, and reintegration (DDR) of former armed combatants, which often follows a peace agreement, is also closely linked to security sector reform. Former combatants are often encouraged to transition into security forces. Vetting ex-combatants applying for security jobs should include

appropriate checks to disqualify known perpetrators of sexual and gender-based violence. This alone can offer some satisfaction to victims who cannot achieve a prosecution or a conviction. If this is not done, and if these perpetrators are placed in positions of authority, this humiliates victims, sends the message that violence against women is socially acceptable, discourages victims from coming forward, and can expose other women and girls to violence. In this respect, I am pleased that the UN has adopted and is implementing a policy to screen its personnel to ensure that they are not implicated in human rights violations.

I also believe that according to the spirit and letter of CEDAW and other human rights instruments, approaches to non- recurrence must be framed in States' obligations to address structural and systemic gender inequality and discrimination through comprehensive legislative, policy and institutional reforms.

Developments in the MENA region exemplify the need for transitional justice processes and institutional reforms that are mindful of the interdependence and interrelatedness of human rights. In some countries in this region, women parliamentarians face fierce opposition when they propose laws that address women's rights, while in others women's public space is shrinking due to threats and intimidation. It is crucial that while we look into quotas and other mechanisms to support women's participation in political systems of countries emerging from conflict, we also consider how illiteracy, poverty, discrimination and violence conspire to prevent their effective participation.

Conclusion:

Ladies and Gentlemen,

Let me conclude by stressing that accountability for crimes against women at times of conflict and instability must be pursued through gender-sensitive transitional justice processes which address perpetrators' impunity and promote women's access to justice; adequately recognize and consider women and girls' experience in efforts to uncover the truth; and promote the design and delivery of gender-sensitive and comprehensive reparation programmes. Preventing recurrence of violations against women and girls further requires seizing the opportunity that societies emerging from conflict and instability present to develop and institutionalize legislative, policy, and other measures to advance women's human rights and to overcome deeply-rooted patriarchal customs and norms. In all cases we need genuine commitment by the State, working in collaboration with civil society, to tackle all of the above in order to ensure accountability to women and girls.

Thank you.
