



International Conference on the Great Lakes Region

Protocol on the Prevention and Suppression of Sexual Violence against Women and Children

30th November 2006

Preamble

We, heads of State and government of the Member States of the International Conference on the Great Lakes Region;

Considering our Declaration on Peace, Security, Democracy and Development in the Great Lakes Region adopted and signed on 20th November 2004 in Dar-es-Salaam, particularly Article 6 under which the Member States expressed deep concern for sexual violence and the exploitation of women and girls and their use as sexual slaves;

Reaffirming our commitment to its implementation on behalf of our peoples, particularly its Article 67 under which the Member States committed themselves to set up, amongst other things, regional mechanisms aimed at providing legal assistance to women and girls who are victims and survivors of rape as well as other acts of sexual violence and exploitation;

Expressing our commitment to comply with Resolution 1325 of the Security Council of the United Nations with respect to the protection of women and children during armed conflict;

Conscious of the high prevalence and widespread incidence of sexual violence in the Great Lakes Region and its destructive impact on the lives, health, physical, sexual, psychological, social, and economic well-being of women and children;

Deeply concerned by the context in which sexual violence is perpetrated in the Great Lakes Region by deliberately targeting women and children as a means of projecting the motives of armed conflict which has a spill over effect in the region;

Mindful that sexual violence is a form of gender-based violence which seriously inhibits the ability of women to contribute to, and benefit from, development, and to enjoy human and peoples rights and fundamental freedoms, in private or public life, in peace time or during situations of armed conflict contrary to the relevant international instruments, including the Charter of the United Nations 1945, Security Council Resolution 1325, the Universal Declaration of Human Rights 1948, Convention on the Prevention and Punishment of the Crime of Genocide 1948, Convention on the Elimination of All Forms of Discrimination Against Women 1979, General Recommendation 19 on Violence Against Women, Convention on the Rights of the Children 1989, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000, the African Charter on Human and Peoples' Rights 1981, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003;

Agree as follows:

Article 1

Definitions

In this Protocol, unless the context otherwise requires, the following mean:

1. **Children:** every human being below the age of eighteen years, unless under the law applicable to the children, majority is attained earlier;
2. **Crimes Against Humanity:** any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
 - a. Murder;
 - b. Extermination;
 - c. Enslavement;
 - d. Deportation or forcible transfer of population;
 - e. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
 - f. Torture;
 - g. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
 - h. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime in international criminal law;
 - i. Enforced disappearance of women and children;
 - j. The crime of apartheid in relation to women and children; and
 - k. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or the physical health of women and children;
3. **Gender:** the social relations between men and women, within the context of society;
4. **Genocide:** any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
 - a. Killing members of the group;
 - b. Causing serious bodily or mental harm to members of the group;

- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - d. Imposing measures intended to prevent births within the group; and
 - e. Forcibly transferring children of the group to another group;
5. **Sexual violence:** any act which violates the sexual autonomy and bodily integrity of women and children under international criminal law, including, but not limited to:
- a. Rape;
 - b. Sexual assault;
 - c. Grievous bodily harm;
 - d. Assault or mutilation of female reproductive organs;
 - e. Sexual slavery;
 - f. Enforced prostitution;
 - g. Forced pregnancy;
 - h. Enforced sterilization;
 - i. Harmful practices, inclusive of all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and children, such as their right to life, health, dignity, education and physical integrity, as defined in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
 - j. Sexual exploitation or the coercion of women and children to perform domestic chores or to provide sexual comfort;
 - k. Trafficking in, and smuggling of, women and children for sexual slavery or exploitation;
 - l. Enslavement by the exercise of any or all of the powers attaching to the right of ownership over women and includes the exercise of such power in the course of trafficking in women and children;
 - m. Forced abortions or forced pregnancies of women and girl children arising from the unlawful confinement of a woman or girl child forcibly made pregnant, with the intent of affecting the composition of the identity any population or carrying out other grave violations of international law, and

as a syndrome of physical, social, and psychological humiliation, pain and suffering and subjugation of women and girls;

- n. Infection of women and children with sexually transmitted diseases, including HIV/AIDS; and
- o. Any other act or form of sexual violence of comparable gravity;

Sexual violence also includes gender-based violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, as defined by the United Nations Committee on the Elimination of All Forms of Discrimination Against Women, in General Recommendation 19;

- 6. **Trafficking in persons:** the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- 7. **War crimes:** grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
 - a. Willful killing;
 - b. Torture or inhuman treatment, including biological experiments;
 - c. Willfully causing great suffering, or serious injury to body or health;
 - d. Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
 - e. Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
 - f. Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
 - g. Unlawful deportation or transfer or unlawful confinement; and
 - h. Taking of hostages;

8. **Women:** human beings of the female sex.

Article 2

Objectives

The objectives of this Protocol are to:

1. Provide protection for women and children against the impunity of sexual violence in the specific context of the Great Lakes Region;
2. Establish a legal framework under which Member States undertake to prosecute and punish the perpetrators of crimes of sexual violence in the Great Lakes Region;
3. Provide a legal basis for the surrender of persons and fugitives charged with committing offences of sexual violence, without prejudice to the Protocol on Judicial Cooperation;
4. Make provision for the establishment of a regional mechanism for providing legal, medical, material and social assistance, including counseling and compensation, to women and children who are victims and survivors of sexual violence in the Great Lakes Region.

Article 3

Principles for Addressing Sexual Violence

1. Member States agree that the principles for dealing with sexual violence under this Protocol shall derive from contemporary developments relating to the criminalisation of sexual violence and the punishment of the perpetrators of sexual violence under international criminal law.
2. Member States guarantee that sexual violence shall be punishable in times of peace and in situations of armed conflict.
3. Member States agree that measures taken by them to protect women and children from sexual violence shall be based on the principles contained in the instruments referred to in the Preamble of this Protocol.
4. Member States are encouraged to ratify and domesticate the Convention on the Elimination of All Forms of Discrimination Against Women, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
5. Member States shall comply with, and implement, the Convention on the Rights of the Child.

Article 4

Categories and Constituent Elements of Sexual Violence Crimes I. The Crime of Sexual Violence

Member States shall punish any person who, with intent, knowledge, recklessness, or negligence, violates the sexual autonomy and bodily integrity of any woman or child, by committing, aiding or abetting the commission of any of the acts of sexual violence referred to in Article 1(5) (6) of this Protocol.

II. Sexual Violence in relation to Trafficking in Women and Children

Member States shall punish any person who, with intent, knowledge, recklessness, or negligence, aids or abets the commission, of any of the acts of trafficking in relation to such a woman or child, as defined in Article 1(7) of this Protocol.

III. Sexual Violence in relation to the Crime of Genocide

Member States shall punish any person who violates the sexual autonomy and bodily integrity of any woman or child by committing, or aiding or abetting the commission of any of the acts of sexual violence in Article 1(5) (6), in connection with the commission of the crime of genocide as defined in Article 1(4) of this Protocol and the Convention on the Prevention and Punishment of the Crime of Genocide.

IV. Sexual Violence in relation to Crimes Against Humanity

Member States shall punish any person who violates the sexual autonomy and bodily integrity of any woman or child by committing, or aiding or abetting the commission of any of the acts of sexual violence in Article 1(5) (6) in connection with the commission of crimes against humanity as defined in Article 1(2) of this Protocol and in other relevant international instruments.

V. Sexual Violence in relation to War Crimes

Member States shall punish any person who violates the sexual autonomy and bodily integrity of any woman or child by committing, or aiding or abetting the commission of any of the acts of sexual violence in Article 1(5) (6) in connection with the commission of war crimes as defined in Article 1(8) of this Protocol and the Geneva Conventions of 12 August 1949.

Article 5

Maximum Sentence

1. Member States encourage a maximum sentence of imprisonment as provided by national legislation for any person convicted of a crime of sexual violence against any woman or child, without prejudice to the imposition of a higher term of imprisonment or other more severe punishment for such a crime.

2. Member States shall ensure that persons convicted of sexual violence shall be subject to social correction and rehabilitation whilst serving their sentences.

Article 6

Regional Responses to Sexual Violence

1. Under this Protocol, Member States agree that each Member State may, together with supporting material, transmit a written request for the arrest and surrender of a person accused of a crime of sexual violence from a Member State to the territory of the requesting Member State.
2. Such a request shall be transmitted through the diplomatic channels of the Member States.
3. Member States agree that the requested State shall cooperate with the requesting State and shall forthwith comply with the request for the arrest and surrender of an accused person to the jurisdiction of the requesting State.
4. Member States agree to simplify the procedures for lodging complaints of sexual violence by women, children, and other interested parties.
5. Member States agree that criminal procedures for the prosecution of persons accused of crimes of sexual violence shall be sensitive to the emotional state of the victims and survivors of such crimes. Under these procedures, such victims and survivors shall give evidence in camera, or by video links, and they shall neither be compelled nor required to give evidence in open criminal proceedings, nor shall the casting of aspersions on their character and integrity be permitted as part of the defence of any person charged with a crime of sexual violence.
6. Member States accept that no statutory limitations shall apply to sexual violence crimes in the Great Lakes Region and hence assume responsibility for ensuring that the victims and survivors of sexual violence are compensated, by the perpetrators.
7. Member States shall establish legal and medical procedures for assisting the victims and survivors of sexual violence, and a fund for sensitizing the perpetrators on the wrongfulness of their sexual behaviour.
8. The responsibility of Member States under paragraph (6) of this Article may entail the creation of a special facility under the fund for reconstruction and development, the purpose of which shall be to provide social and legal assistance, medical treatment, counseling, training, rehabilitation and

reintegration of the survivors and victims of sexual violence, including those who may not be able to identify the perpetrators of sexual violence.

9. Member States agree to set up a special regional facility for training and sensitizing judicial officers, police units, social workers, medical officers and other categories of persons who handle cases of sexual violence in the Great Lakes Region.
10. Member States agree to harmonize all relevant national laws and criminal procedures in accordance with the provisions of this Protocol.

Article 7

Final Provisions

1. This Protocol shall be an integral part of the Pact and shall not be subject to separate signature and ratification by the Member States.
2. For any Member State which has ratified the Pact in terms set out in Article 30 of the Pact, this Protocol shall automatically enter into force at the same time as the Pact in accordance with Article 33 of the Pact.
3. Nothing contained in this Protocol shall be construed to be contrary to the provisions of the Pact, the Constitutive Act of the African Union, and the Charter of the United Nations.