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Special Rapporteur on the Rights of Women in Africa
On
Combatting sexual violence and its consequences

1 Introduction

Sexual violence is one of the most pervasive forms of violence in the world, with 7% of women having experienced sexual violence by someone other than an intimate partner during their lifetime.¹ It is associated not only with physical injury but with a number of adverse health, social and economic consequences. Sexual violence is a sub set of violence and in the same way, the right to be protected from sexual violence is often recognised as an integral component of the right to be protected from violence. As a case in point, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) provides, in article 4, for the protection from all forms of violence, *including sexual violence*. The consequences of sexual violence have huge costs for the victim, communities, societies and nations. Nevertheless, many policies are exclusive of the needs of women to be protected from sexual violence and do not provide for the types of tailored approaches that are required to combat the phenomenon.

However, the above notwithstanding, at the regional level, there is growing recognition of the importance of addressing sexual violence and its consequences. For instance, the Maputo Protocol, which is the core document for the protection of women's human rights in Africa, contains several articles which require states parties to prevent sexual violence against women, to protect women from sexual violence and its consequences, and to hold the perpetrators of violence accountable.² Under the Maputo Protocol, states parties are further required to provide for budgetary and other resources to implement and monitor actions aimed at preventing and eradicating violence against women.³

In addition to the Maputo Protocol, the soft laws of the African Commission, of which the Mechanism of the Special Rapporteur on the Rights of Women in Africa is a part, also require states parties to take steps to ensure that women are protected from sexual violence and its consequences.⁴ During its 42nd session in 2007, the African Commission adopted a Resolution on the Right to Remedy and Reparation for Women and Girl Victims of Sexual Violence, aimed at ensuring the accessibility of remedial measures and compensation for victims. The African Commission also raised concern over sexual violence being used as a weapon of war in Sudan in resolutions in 2004 and 2005.

In 2014, the attention of the African Commission was heavily focused on sexual violence, resulting in the adoption of four resolutions on the topic: one around the suppression of accountability for sexual violence against women in the Democratic Republic of Congo, a

¹World Health Organization *Global Status Report on Violence Prevention* (2014) 76.

²Articles 4, 5(d), 11(3), 22(b) and 23(b) of the Maputo Protocol.

³Articles 4(2)(i) and 26(2) of the Maputo Protocol.

⁴General Comments on Article 14 (1) (d) and (e) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; General Comment No. 2 on Article 14.1 (a), (b), (c) and (f) and Article 14. 2 (a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

second condemning the perpetrators of sexual assault and violence in the Arab Republic of Egypt, a third calling for the protection against sexual violence suffered on the basis of sexual orientation and gender identity and a fourth noting concern at the increased level of sexual violence against female protestors.

In 2012, the Mechanism of the Special Rapporteur on the Rights of Women in Africa was integral in ensuring the adoption of a general comment on article 14 (General Comment 2), which elaborated on states parties obligations to provide for abortion in cases of sexual assault, as required under article 14(2)(c) of the Maputo Protocol.

The African Commission is acutely conscious of the need to track and monitor reports of sexual violence as well as progress and measures aimed at its prevention. In this regard, the African Commission's guidelines on state reporting under the Maputo Protocol, adopted in 2009, urge state parties to include a section, in their state reports, on measures taken to protect women from violence.

In addition to the structured efforts undertaken by the African Commission and the Special Rapporteur to address sexual violence, the Mechanism of the Special Rapporteur has routinely engaged in meetings and processes aimed at combatting sexual violence. For example, in 2015, the Mechanism organised a meeting which was aimed at understanding the impact of conflict on the rights of women and girls. As we all know, conflict is often a trigger for sexual violence and for that reason, article 11(3) of the Maputo Protocol requires us to protect asylum seeking women, refugees, returnees and internally displaced persons against all forms of violence, rape and other forms of sexual exploitation. The article also provides that these acts should be considered as war crimes, crimes of genocide or crimes against humanity and that their perpetrators are brought to justice.

2. Challenges in combatting sexual violence and its consequences

Despite the legal frameworks to prevent and address sexual violence in Africa, we know that women and girls continue to be victims of sexual violence, and disproportionately so. This is both a reflection of, and a result, of widespread and persistent gender inequality and gender discrimination on the continent. Against this backdrop, there are several challenges in the way of combatting sexual violence, including:

- Many countries in Africa lack specific laws and policies which provide for the *prevention* of sexual violence against women. Existing laws often focus exclusively on the prosecution of perpetrators of sexual violence.
- Most African societies are patriarchal and victims, who are mostly women, are often afraid to report sexual violence or denounce the men in society. Culturally, the man is considered as the guardian of one's honour and therefore victims may naturally be scared to confront them.
- Across Africa, a major challenge to combat sexual violence is the lack of a comprehensive and effective system through which victims of sexual violence can report the matter, access services and demand accountability.

- Many African countries do not provide for adequate budgetary and other resources to implement and sustain services to combat the consequences of sexual violence.

3. Recommendations

A growing body of research shows that interpersonal violence can be prevented and its far-reaching consequences mitigated. To achieve this, we must acknowledge that sexual violence is a complex and multi-faceted problem, which will take time and effort to address.

This meeting is timely and match our expectations in terms of initiatives to combat sexual violence and its consequences. Guidelines on combatting sexual violence can provide for a framework for countries when they are devising laws and policies with regard to sexual violence. To be able to have an impact and to match the burden and the severity of the problem, the guidelines to combat sexual violence and its consequences must provide for the following recommendations:

- States parties to the Maputo Protocol which have not yet adopted laws to protect victims from sexual violence must urgently do so. Where laws exist, states parties must focus on better enforcement, including strengthening institutional mechanisms and resources and increasing the human capacity needed to ensure enacted legislation protects people from violence, holds perpetrators to account and creates safe environments for all citizens;
- States parties must put in place comprehensive systems through which victims can report cases of sexual violence. These systems must be confidential and should be linked to healthcare, counselling and other comprehensive and integrated services which provide for support of victims;
- States parties must strengthen data collection to reveal the true extent of the problem and to inform comprehensive and data driven national action plans to address sexual violence;
- States parties must provide adequate budgetary allocations to address sexual violence. In particular, investments in prevention need to be on a scale that matches the burden;
- States parties must also address the key causes of sexual violence in their violence prevention strategy;
- The burden of combatting sexual violence does not rest only with states parties. Different stakeholders must work together to devise a plan of action, which should take into account all aspects of sexual violence and provide for solutions to combatting sexual violence at all levels; and finally
- States parties should also work in collaboration with religious and traditional leaders to combat sexual violence.
